

**2012  
LOW-INCOME HOUSING TAX CREDIT PROGRAM  
QUALIFIED ALLOCATION PLAN  
FOR THE  
STATE OF IDAHO**

**ALLOCATING AGENCY:  
Idaho Housing and Finance Association**

**Final Approval by:  
Idaho Housing and Finance Association  
Board of Commissioners on December 9, 2011**

**The Honorable C.L. "Butch" Otter, Governor, State of Idaho  
on  
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## **SECTION 1 – INTRODUCTION**

### **1.1 Designation of Association**

The Low-Income Housing Tax Credit was created under the provisions of the Tax Reform Act of 1986 to encourage the development of rental housing for low-income households. The Idaho Housing and Finance Association, as the Allocating Agency, (hereinafter referred to as the "Association") by Executive Order from the Governor, is the designated administrator of the tax credit with the responsibility of allocating the state's annual credit ceiling in accordance with an approved, qualified Allocation Plan. Section (§) 42 of the Internal Revenue Code, as amended, specifies the requirements of a qualified plan. For developments financed by tax-exempt bonds where the development owner seeks tax credits, a separate set of requirements is provided in Section 11.

### **1.2 Revision of Existing Plan**

This revised plan was approved by the Association's Board of Commissioners on December 9, 2011, and subsequently by the Honorable C.L. "Butch" Otter, Governor, on December 13, 2011, following a public hearing in Boise, Idaho, on October 26, 2011 after appropriate notice as required by law. This revised Plan is to be effective January 1, 2012.

### **1.3 Interpretation**

Reference Sections and other subdivisions are to the designated Sections and other subdivisions of the Plan. The headings of this Plan are for convenience only and do not define or limit the provisions hereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate.

### **1.4 Tax Credit Administration Standards**

In June 1992 a Working Group of State Allocating Agencies was established to examine the administration of Tax Credits on a nationwide basis. The Working Group was charged with the responsibility to develop a common set of standards whereby all State Allocating Agencies would adopt and apply these standards in evaluating applications for housing credits. In 1993, 1998, 2003, and more recently in 2010, the Working Group recommended a set of standards which were adopted by the National Council of State Housing Agencies (NCSHA), and have been incorporated into the Idaho Housing and Finance Association's Qualified Allocation Plan and underwriting analysis of Tax Credit Applications.

### **1.5 Fair Housing**

Fair Housing is the right of all people to be free from discrimination in the rental, sale, or financing of housing. The Fair Housing Act requires that federal government agencies and the programs and activities they fund be operated in a manner that affirmatively furthers fair housing. The following link provides information regarding what's covered and who must comply with the Fair Housing Act.

<http://www.ihfa.org/portals/1aefd484-8f22-4f8c-93cd-1c7373969c55/media/grant%20programs/home%20admin%20plan/chapter%206%20federal%20requirements%20revised%2010.18.10.pdf>

The 2001 State of Idaho Analysis of Impediments (AI) is available for review via the following link:

<http://www.ihfa.org/ihfa/housing-information-and-referral-center/fair-housing/analysis-of-impediments.aspx>

The AI includes areas of concern (which could potentially rise to the level of an impediment) and possible impediments involving land-use planning, zoning, and other policies and practices. The report also includes recommendations and best practices for the housing industry and government.

Please also note QAP Section 2.7 which requires Fair Housing certifications from the Architect.

## **SECTION 2 - PLAN OVERVIEW**

### **2.1 Application Rounds**

Idaho's Qualified Allocation Plan establishes a competitive process whereby low-income housing tax credits may be awarded to developments that address low-income housing priorities throughout the state. The state's tax credit ceiling, \$2.20 per capita plus a cost-of-living adjustment, and any amounts carried forward or returned to the Association from a prior year, will be available during three Application Rounds. Application Round Deadlines are listed in Section 3.1.

### **2.2 Application Process**

During the Application Process, sponsors competing for tax credit reservations must supply documentation in accordance with specific application requirements, and tax credit reservation recipients must qualify for and make application for tax credit allocation certifications or carryover allocations in accordance with the Association's requirements and timetables. Refer to Section 4 for additional requirements.

### **2.3 Housing Priorities**

The Qualified Allocation Plan utilizes Special Needs Set-Asides and a Selection Criteria Point System to target specific low-income housing priorities pertinent to Idaho as designated by Idaho's housing needs assessment and to comply with the selection criteria and preference categories mandated by the amended federal program regulations. Applications will be ranked under the point system with tax credit reservations being granted to those developments receiving the highest number of points. Developments will be disqualified if they do not meet a minimum threshold of 145 points, fail to provide evidence of management capacity and affordability for low-income households, or are deemed by the Association, at its sole discretion, to be economically infeasible or located in a market area which does not support the proposed development.

### **2.4 Development Evaluation**

Pursuant to §42 of the Internal Revenue Code, as amended, credits reserved for a development may not exceed the amount necessary for the financial feasibility of the development and its viability throughout the credit period. As mandated by Congress, a Development Evaluation will be made for each complete application received by the Association, and further evaluations will be conducted for reservation recipients as they move through the allocation process.

### **2.5 Administrative Fees**

The Association will collect a non-refundable \$1,000 administrative fee at the time the Tax Credit Reservation is accepted. This fee is in addition to the 3% Reservation fee. These dollars are intended to off-set the additional external costs (third-party professional consultant fees and/or legal costs) associated with the growing need for more complex regulatory interpretations.

## **2.6 Cost Certification**

Final allocation of credit shall be conditioned upon receipt of an independent third-party Certified Public Accountant's Cost Certification. The required Cost Certification format is provided in Exhibit G.

## **2.7 Architectural Requirements**

All developments receiving Low-Income Housing Tax Credit Allocations shall be constructed in accordance with the Association's minimum Architectural Requirements as well as all applicable local, state, and federal laws. Federal law includes the Fair Housing Act Amendments of 1988 which provide specific guidelines for multifamily dwellings in regard to minimum handicapped accessibility and adaptability. Sponsors shall obtain a certification from their architect indicating that the development meets said local, state, and federal laws as well as the minimum requirements set forth in this Plan. Additionally, an Architect Certification confirming that the development has been built in accordance with the drawings must be submitted to the Association with the Owner's application for a Placed-in-Service Tax Credit Allocation Certification. Certification formats are provided in Exhibits C-1 and D-1. The Association assumes no responsibility to inspect developments for compliance with said laws.

## **2.8 Site Visits**

Association staff and their consulting architect have the right to visit developments during the construction period and development sponsors shall grant access to the development upon 24-hour notification.

## **2.9 Allocation Limitations**

Allocation Limitations have been provided to promote effective utilization of the tax credit resource.

## **2.10 Compliance Monitoring**

In accordance with federal regulations, all developments receiving tax credit allocations beginning in 1987 are subject to Compliance Monitoring that will be conducted by the Association. Noncompliance will be reported to the Internal Revenue Service as required by §42 of the Internal Revenue Code.

## SECTION 3 - APPLICATION ROUNDS

### **3.1 Application Round Closing Dates**

Sponsors must submit a complete Application for Low-Income Housing Tax Credit reservation during the following specified application rounds.

#### APPLICATION ROUNDS

#### 2012 YEAR CREDIT APPLICATION DEADLINE

February 2012

FEBRUARY 10, Friday

Summer 2012

Application rounds will be announced as deemed necessary to effectively utilize the housing credit giving a 30-day notice.

#### 2013 YEAR CREDIT

September 2012

September 7, Friday. (Allocation of succeeding year credit is subject to all 2012 year credit being awarded.)

### **3.2 Availability of State Tax Credit Ceiling**

The state's credit ceiling consists of per capita credit, returned credit, unallocated credit carried forward from previous years, and credit received from the National Pool. This credit ceiling is made available during scheduled application rounds each year.

#### **3.2.1 Per Capita Credit**

Exhibit A contains a Tax Credit Distribution Summary providing information about the credit available during each Application Round.

#### **3.2.2 Returned Credit and Carryforward Credit**

The Association may reallocate returned credit or may carry forward credit in accordance with §42 of the Code.

- a) All credit carried forward from the previous year or returned to the Association before October 1 will be available during the first application round or the round directly following receipt of the credit.
- b) To prevent loss of credit or prohibition of participation in the National Pool, the Association, at its sole discretion and without a competitive round or prior notification, may (1) select a new development(s) which meets threshold requirements and whose sponsor is prepared and able to meet all carryover requirements and/or (2) assign credit to developments with current year credit which have demonstrated acceptable, increased costs at the time of carryover in the following situations:
  - (1) Current year credit previously reserved or committed is returned after October 1<sup>st</sup>, or
  - (2) Current year credit remains unreserved after October 1st.

- (c) Credit received after October 1st which, in accordance with §42 regulations may be carried forward, or may, at the Association's sole discretion, be allocated to developments which have received current year reservations which are lower than the amount required by the development as determined by the gap analysis or eligibility defined in the Development Evaluation section hereof. Such allocations will be made only to the extent that development feasibility is jeopardized by increased costs acceptable to the Association.

### **3.2.3 National Pool Credit**

Unused tax credit for all states is assigned to the National Pool for allocation among qualified states. States that qualify to receive National Pool are those states that successfully allocate their entire credit ceiling in the preceding year. National Pool Credit is awarded late in the allocation year.

In order to effectively allocate National Pool Credit to qualified developments under the time constraints attached to said credit, the Association at its sole discretion and without a competitive round or prior notification, may (1) select a new development(s) which meets threshold requirements and whose sponsor is prepared and able to meet all carryover requirements and/or (2) assign credit to developments with current year credit which have demonstrated acceptable, increased costs at the time of carryover.

If requested, a 1 year (from the date of allocation) extension to complete the "10% Test" for Carryover Allocation is available to National Pool Credit recipients.

### **3.3 Reservations Not Accepted by Sponsors**

Credit reserved by the Association during any application round that is not accepted by the sponsor will be available during the next scheduled application round.

### **3.4 Public Notice**

The Association will advertise statewide, via legal notice, the dollar amount of available tax credits prior to each competitive application round, indicating the types and amounts of set-asides, but is not required to provide any further notice to any party or participant.

## **SECTION 4 - APPLICATION PROCESS**

### **4.1 Application Limit**

The maximum amount of tax credit requested by any one sponsor during a particular application round will be limited to \$850,000 or less of annual tax credit, regardless of the number of applications.

### **4.2 Application Requirements**

Complete applications must be submitted to the Association at each stage of the allocation process:

Stage 1. Reservation,

Stage 2. Carryover Allocation, and

Stage 3. Allocation Certification (Placed-in-Service).

Complete applications shall include the requisite supporting data listed in Exhibit B and any information required in the application form. The Association may, at its sole discretion, request additional information as deemed necessary for a fair and accurate evaluation.

Material changes to the application will not be accepted after the application round deadline.

After the issuance of a tax credit reservation, applications that are submitted for processing for a carryover allocation, and later for an allocation certification will be evaluated under this Qualified Allocation Plan. This will include an evaluation of all thresholds, i.e., market study, economic feasibility, management capacity, affordability and selection criteria points. Furthermore, the aggregate Selection Criteria Points established by the Association at the time of the initial tax credit reservation must be maintained throughout each evaluation stage of the allocation process.

The housing sponsor is not allowed to materially change the original application that was submitted prior to the application round deadline, or at any other time, which is to include the carryover allocation stage and allocation certification stage, with the one exception stated as follows:

If circumstances beyond the control of the housing sponsor have an effect of reducing the selection criteria points scored on their application, the Association will allow the housing sponsor to substitute other point scoring categories to replace the lost points in order to maintain their original score established by the Association at the time of tax credit reservation.

### **4.3 Sponsor's Responsibility to Submit Complete Application**

The sponsor shall bear full responsibility for submitting its application in accordance with the requirements of the Code and the Plan and shall be deemed to have full knowledge of such requirements regardless of whether or not a member of the Association's staff responds to a request for assistance from the sponsor or otherwise provides a sponsor

assistance with respect to all or a portion of the sponsor's application. (Applications must include the executed 'Sponsor's Certification' form, which is included as part of the application form.)

#### **4.3.1 Development Team**

Sponsors must clearly identify all members of the development team, providing résumés as specified in the application. The experience of the development team is a major factor in development selection. The Association may reject applications if the development team does not demonstrate experience in affordable multifamily housing development or require that the sponsor secure assistance from experienced developers. Changes in general partner(s), management company, developer and/or housing sponsor must be approved in writing by the Association through the reservation and carryover periods (or through the conditional commitment period for tax exempt bond developments).

#### **4.4 Association's Staff Assistance**

The Association's staff may, in good faith, attempt to respond to questions and offer assistance to sponsor during the application process, but shall be in no way obligated to, at any time, inform any sponsor as to deficiencies in the sponsor's application.

#### **4.5 Incomplete Applications**

Incomplete applications will not be accepted.

#### **4.6 Application Fees**

Sponsors must submit required fees as set forth in the application form at each stage of the application process.

#### **4.7 Requirements for Developments Previously Relinquishing Credit**

Sponsors reapplying for credit for developments which have previously received tax credit reservations or allocations and have been removed from the application process or have failed to be placed-in-service because of site control, zoning or financing issues must submit, with their reservation application, evidence (acceptable to the Association) substantiating that such issues have been resolved.

#### **4.8 Additional Tax Credit Requests**

Sponsors may apply for additional tax credit if, in the opinion of the Association, there are reasonably documented increases in their development costs that are directly related to Eligible Basis. Depending on the circumstances (see Section 4.8.1 and Section 4.8.2 below), additional tax credit may be awarded outside of a competitive round or within a competitive round.

In awarding additional tax credit, the Association will hold developer fees to the same amount as reflected on the original application.

In addition, if increased development costs are the result of hard construction cost increases and a contract has already been executed with the contractor, the Association will require that the following items accompany any application for additional tax credit:

- Copies of any change orders associated with the increased costs.

- Comprehensive explanation and justification by the Sponsor for the need to amend the original construction contract.

#### **4.8.1 Additional Tax Credit Requests Outside of a Competitive Round**

Sponsors may apply for additional tax credit outside of a competitive round provided their cumulative additional credit requests do not exceed 20% of the original tax credit award. However, this provision is not available to developments in which an increase in development costs is the result of major architectural design changes (i.e., additional units or significant changes to the original design). Additionally, applications outside of a competitive round will only be accepted provided the Association determines that sufficient tax credit is available, after giving consideration to the amount of credit needed for the competitive rounds.

Applications for additional credit outside of a competitive round may be submitted anytime throughout the year, but must continue to meet the application thresholds mentioned in Section 4.9 except that an updated market study and new determination of Market Study Threshold will not be required.

#### **4.8.2 Additional Tax Credit Requests Within a Competitive Round**

Developments in which an increase in development costs is the result of major architectural design changes (i.e., additional units or significant changes to the original design), or developments whose cumulative additional credit requests exceed more than 20% of the original tax credit award, must be submitted during the application rounds mentioned in Section 3.1. These developments will be awarded based on a competitive process. All application thresholds mentioned in Section 4.9, including the Market Study Threshold, must be met with these requests.

### **4.9 Application Thresholds**

Applications must meet market study, economic feasibility, management capacity, affordability, and point thresholds to be ranked under the Selection Criteria System. .

#### **4.9.1 Market Study Threshold**

Applications submitted for developments in locations where marketability is, at the sole discretion of the Association, deemed questionable will be returned to the sponsor. Sponsors must submit a current (no more than six months old) market study for review by the Association. For acquisition/rehabilitation developments, a previously completed MAI appraisal can be used to establish market feasibility for acquisition/rehabilitation developments provided; 1) the appraisal report is less than six months old, and 2) the appraisal addresses the development's ability to sustain occupancy at 93% or greater. An update will be allowed up to six months after the date of the original market study or appraisal, although in no instance will the Association accept a market study/appraisal beyond 12 months of the original date. Sponsors are required to obtain their market study from a provider who is listed on the Association's approved market study provider's list. If an appraisal is used to meet the Market Study Threshold, it must be conducted by an appraiser who has a MAI designation. The Association may also draw from other resources in making a determination of marketability. Market Study requirements are listed in the

application requirement section, Exhibit B. If the sponsor has a concern regarding the conclusion or specific content within the study, then they will be afforded the opportunity to submit their comments to the Association.

**Note:** The Association is hereby notifying the Housing sponsors that the contents of the market study may be disclosed to the general public. The party requesting this information may be assessed a nominal fee. See Section 12.1.7 regarding other matters which may be disclosed to the public.

#### **4.9.2 Economic Feasibility Threshold**

Applications received during each Application Round will be reviewed and evaluated in accordance with accepted underwriting practices. Developments deemed economically infeasible by the Association, at its sole discretion, will be declined. In making a determination of economic feasibility, the Association will evaluate operational and developmental projections set forth in Section 7, Development Evaluation. The Association has established a minimum annual operating cost per unit of \$3,800 (inclusive of replacement reserves) for family developments and \$3,500 (inclusive of replacement reserves) for elderly developments. Any developments utilizing less than the minimum will be adjusted to the Association's minimum requirements.

*Caution: Given the volatility of the property tax assessments throughout the state, the Association encourages the Sponsor to contact the Assessor in the county where the development is to be located, before estimating annual property tax expenses.*

**In underwriting, the Association will increase tax credit rents to the maximum allowed for each proposed AMI level, provided the maximum tax credit rents charged are less than the market rents for comparable units in the area where the development is to be located.** Split AMI levels where the development qualifies the tenant at one AMI level and then charges rent based on a lower AMI level will only be allowed if there is not a competing LIHTC development within the "Primary Market Area". The variance between the Area Median Income ("AMI") rent level and corresponding income level cannot be more than 5%. ("Primary Market Area" as defined in the market study or appraisal that accompanies the tax credit application.) Be advised that Preference Points mentioned in Section 6.5 will continue to be awarded based on "AMI" targeting and will not be affected by lower rent levels.

The Association will use authorized rents as documented by the appropriate government entity, in underwriting developments with project-based subsidy (i.e., HUD Section 8 or Rural Development Section 515). Sponsor to provide documentation from government entity that evidences said rent levels.

In the case of subordinate financing (where repayment is dependent on remaining cash flow), excessive asset management or incentive fees will be scrutinized. Excessive asset management or incentive fees that limit subordinate debt repayment will result in the failure of the development to meet the Economic Feasibility Threshold.

During the Association's analysis, Operating Reserves will only be considered a cost item when required by Lender or Syndicator and mentioned in the letter of intent or commitment that is submitted with the application for tax credits.

#### **4.9.3 Management Capacity Threshold**

Sponsors must submit a comprehensive Management Plan which includes an Affirmative Fair Housing Marketing Plan, a Previous Management Experience Summary for the proposed management agent, and the Management Agent Questionnaire. Required formats for the Previous Management Experience summary, Affirmative Fair Housing Marketing Plan, and Management Agent Questionnaire may be found in the Exhibits of the Tax Credit/HOME application. The Association requires that developments receiving Low-Income Housing Tax Credit be managed by a management agent with previous experience in Section 42 tax credit housing. A manager who has received, or will receive within 90 days, adequate program-specific training from experts recognized within the industry, is required for all developments. The Association reserves the right to accept any alternate system of controls and procedures that will provide a reasonable assurance relative to management capacity.

Any change in the management agent subsequent to reservation and throughout the extended use period, or a waiver to the on-site manager requirement, must be approved in writing by the Association. Failure to secure such approval may result in forfeiture of the tax credit. The proposed management plan should include, but is not limited to, the following:

- ▶ On-site manager(s);
- ▶ Evidence of successful completion of Section 42 Low-Income Housing Tax Credit training by on-site managers;
- ▶ Resident-Management relations;
- ▶ Owner-Management company arrangements;
- ▶ Maintenance personnel and procedures;
- ▶ Model units;
- ▶ Leasing agents;
- ▶ Units designated for staff;
- ▶ Social Services Programs, if applicable;
- ▶ Rent collection procedures & policies;
- ▶ House Rules;
- ▶ Copy of Affirmative Fair Housing Marketing Plan;
  - ✓ Provision for staff training;
  - ✓ Advertising; and

✓ADA concerns.

- Termination of lease and eviction procedures;
- Written procedures for tenant eligibility screening;
- Copy of residential lease forms and applications proposed to be utilized for the development;
- Copy of tenant income certification form for determining resident eligibility; and
- Oversight and Compliance Agreement (if applicable or required by the syndication company).

A determination of management capacity will be made at the sole discretion of the Association. As determined by the Association's Compliance Department, any unresolved Form 8823s or material noncompliance with the provisions found in the Low-Income Housing Tax Credit and/or HOME Regulatory Agreements in previous developments which are owned or managed by the Sponsor or the Sponsor's management agent may result in the failure of a proposed development to meet the Management Capacity Threshold. In making this determination, the Association's Compliance Department will consider circumstances which are beyond the Sponsor's control, such as accidents or acts of nature.

#### **4.9.4 Selection Criteria Point Threshold**

Applications must achieve 145 points or the application will be declined.

#### **4.9.5 Affordability Threshold**

The maximum tax credit rents, as disclosed in the Maximum Rent Tables, less an allowance for tenant-paid utilities, must be less than the market rents for comparable units in the area where the development is to be located. If this test of affordability cannot be met, the housing sponsor would need to reconfigure the development with affordable rents and AMI targeting based on the next lowest established AMI category as disclosed in the Maximum Rent Tables. Please note from Section 4.9.2 that split rent levels where the development qualifies the tenant at one AMI level and then charges rent based on a lower AMI level will only be allowed if there is not a competing LIHTC development within the "Primary Market Area" and if the variance between the qualifying income level and corresponding rent level is not more than 5%. ("Primary Market Area" as defined in the market study or appraisal that accompanies the tax credit application.) Be advised that Preference Points mentioned in Section 6.5 will continue to be awarded based on AMI targeting and will not be affected by lower rent levels.

Refer to the market study requirements mentioned in Exhibit B, Section A, Item 3.

- Should the market study address only a range of market rents, the affordability threshold will be calculated based on the minimum of the range.

### Acquisition/Rehabilitation

Applications submitted to the Association that pertain to the acquisition and rehabilitation of an existing affordable housing development that has an existing Project Based Assistance (PBA) contract in place, will not have to meet the Affordability Threshold as described in the Qualified Allocation Plan. All other thresholds and requirements within the Qualified Allocation Plan must be met as disclosed. The housing sponsor will provide a letter of acknowledgement and/or commitment from the provider (HUD, USDA RD, etc.) that the current housing subsidy will continue in force, or be extended for a given period of time. The letter needs to include the following:

- Maturity date of contract/subsidy
- Rental assistance dollar amount

The development must retain and have in place the continuance of the existing PBA contract on the development to qualify for tax credits and will be required to maintain the development at a rent level that will be the lesser of: Fair Market Rent (FMR) or rent levels at 60% AMI should the PBA contract expire.

The housing sponsor is subject to meeting the requirements as disclosed under Section 42(g)(2)(B)(i) and Section 42(g)(2)(E).

#### **4.10 Development Ranking**

In the ranking process, developments receiving the highest number of points and meeting threshold requirements will be selected to receive tax credit reservations. In the event there are equally competing developments, the selection will be determined at the sole discretion of the Association. Applications that fail to meet the Selection Criteria point threshold or fail to demonstrate economic feasibility, management capacity, or affordability will be returned to the sponsor. Such sponsors may reapply in subsequent application rounds.

#### **4.11 Reservations**

The Association will issue, to the extent possible, reservations for tax credits within 90 days of the final application date or such longer time period established by the Association. Sponsors must accept the reservations within 10 business days of the date of issuance unless they are requesting a re-evaluation.

##### **4.11.1 Partial Reservations**

No partial reservations will be made.

##### **4.11.2 Waiting List Developments**

If developments do not receive a reservation during a given Application Round, they will be placed on a waiting list for consideration during the next Application Round, if the sponsor so desires. No chronological priority will be granted to waiting list applications. Any material changes in a waiting list application will require a new application in the next application round and payment of an additional application fee. Waiting list applications will expire when all of the state's annual credit ceiling and succeeding year credit (designated as

available) has been reserved or at the end of the calendar year, whichever is first.

#### **4.11.3 Succeeding Year Credit Utilization**

At its sole discretion, the Association may enter into agreements for reservations of succeeding year credit.

### **4.12 Posting of Assurance**

If the developer of a proposed development has not previously completed a Low-Income Housing Tax Credit development, or if the developer's experience is limited to developments which have been completed with assistance from consultants or co-developers, the developer will be required to post a cash deposit, letter of credit or performance bond in a form acceptable to the Association as follows:

- The greater of 10% of the annual tax credit reserved or \$10,000 posted at the time the tax credit reservation is accepted. If additional credit is subsequently awarded, the amount of the bond will be raised accordingly.
- Once all of the buildings in the development have received Certificates of Occupancy, the posting of the assurance instrument may be cancelled upon the prior written approval from the Association.

If construction of the development is not completed (as evidenced by the issuance of Certificates of Occupancy) within the regulatory time frame set forth in tax credit regulation (i.e., no later than the end of the second calendar year following the year the carryover allocation is made), the developer must agree to return the credit to the Association and forfeit the bond. The Association will reduce the amount of the bond by any fees the sponsor has paid in connection with the credit award. For sample formats of Bonds (TC-12) or Letters of Credit (TC-12A), please contact the Multifamily Finance Department.

#### **4.12.1 Previous Experience Certification**

The sponsor must provide a previous experience summary that clearly identifies all previous experience and affiliations with consultants and co-developers.

#### **4.12.2 Waiver or Modification of Requirement**

The Association, in its sole discretion, reserves the right to waive or modify the performance bond requirement in situations where the requirement does not further the goals of the Low-Income Housing Tax Credit program.

### **4.13 Notice to Local Officials**

Upon granting a reservation, the Association will notify the mayor or the county commissioners of the plans for the development in their locale. The local official may comment on the development and such comments, if made, will be evaluated on a case-by-case basis.

#### **4.13.1 Letters of Community Support**

The Association intends to notify local public officials, and/or public housing agencies, of proposed housing developments submitted by housing sponsors

that are within their market area for tax credits under the Association's Tax Credit Qualified Allocation Plan. The notification will include a brief profile of the development and will permit their input, support and/or comments as it pertains to the housing development. Such input may be considered in the underwriting of the development during the application process.

Public Official comments, if made, represent only one factor of many considerations in evaluating a proposed development. Such comments are primarily intended to assist in evidencing a need for the proposed housing.

The housing sponsor may elect to submit a letter of community support with their tax credit application and are encouraged to do so in accordance with the plan. The public official and/or public housing director submitting the letter of community support for the housing development should address in their letter of support the following issues:

- Support for affordable housing;
- Support for the development of additional housing units as proposed; and
- Acknowledgement that there is a need for additional rental units.

Letters of community support will not be accepted from public officials and/or public housing agencies that have a relationship or material involvement in the proposed development.

#### **4.14 Deadline for Carryover Allocation Certification**

On or before November 15 of each year, Tax Credit Reservation recipients must submit an Owner's Certificate and Agreement for Carryover Allocation along with the Carryover documentation items mentioned in Exhibit B.

The Owner's Certificate and Agreement for Carryover must be accompanied by an Accountant Certification of basis for purposes of the "10% Test," substantially in the format of the Certification provided in Exhibit F, unless the recipient requests in writing a 1 year (from the date of allocation) extension to complete the "10% Test". The Association reserves the right to review said certifications for reasonableness and may refuse to accept certifications based on that review. If the Association has received complete Owner's documentation, a carryover allocation will be issued no later than December 31<sup>st</sup> of each year.

Sponsors failing to apply for Carryover Allocation within 10 business days of the requirements mentioned above will be charged a \$2,500 penalty, unless a formal extension of the deadline has been granted in writing by the Association.

#### **4.15 Placed-In-Service (Allocation Certification) Application**

Developments must submit an Application for Tax Credit Allocation Certification (Form 8609) within 120 days after the permanent financing has closed. If permanent financing has closed before the construction or rehabilitation of the Development is complete, the Development must submit an application for Tax Credit Allocation Certification (Form 8609s) within 120 days following receipt of Certificate(s) of Occupancy, or in the case of rehabilitation, Certificates of Substantial Completion signed by the development's architect. Documentation requirements for Tax Credit Allocation Certification are

mentioned in Exhibit B. Sponsors that fail to apply for Allocation Certification by the deadlines specified above will be subject to a \$5,000 penalty, and will be prohibited from participation in the subsequent application round. The Association will make its best effort to issue 8609s within 30 days of application provided the application is complete upon submission.

#### **4.16 Memorandum of Understanding with Rural Development**

In accordance with its Memorandum of Understanding, the Association and Rural Development will share information submitted for developments utilizing Low-Income Housing Tax Credits and Rural Development funding.

#### **4.17 Requirements for Acquisition/Rehabilitation Developments**

Sponsors must provide evidence that the cost of acquisition, displacement, and rehabilitation are reasonable.

Acquisition costs will be limited to the lesser of the sale price or the current appraised value of the property, determined by an MAI appraisal, that includes both an “as is” restricted market value and an “as is” unrestricted market value (net of appraiser recommended repairs), of existing development with land value broken out separately.

For clarification purposes, a previously completed MAI appraisal can be used to determine the current appraised value of the property, provided; 1) the appraisal report is less than six months old, and 2) the appraisal comprehensively addresses the requirements listed above. An update will be allowed up to six months after the date of the original appraisal, although in no instance will the Association accept an appraisal beyond 12 months of the original date.

In sizing the amount of acquisition tax credit awarded, the Association will use the following criteria:

- 1) If the property’s present use is not deed restricted for low-income rental housing, acquisition costs will be limited to the lesser of the sale price or the “as is” unrestricted market value as determined by the MAI appraisal; OR
- 2) If the property’s present use is deed restricted for low-income rental housing, acquisition costs will be limited to the lesser of the sales price or the “as is” restricted market value as determined by the MAI appraisal.

For a building to be considered substantially rehabilitated, rehabilitation costs during any 24-month period must equal or exceed an average of \$20,000 in “hard”rehabilitation costs per unit or must equal a minimum of 20% of the adjusted basis of the building per Section 42 requirements, whichever is greater. Hard rehabilitation costs include site work, rehabilitation costs for physical improvements to the property, and construction contingency. (It should be noted that contractor profit, contractor overhead, general requirements, and soft costs will not be considered in this definition of hard rehabilitation costs.) Specific documentation requirements for rehabilitation developments are set forth in Exhibit B. Funding sources must include a first-lien, permanent loan that maximizes the debt carrying capacity of the development. Acceptable development cost for rehabilitation projects will be evaluated separately from our normal benchmark costs evaluation, assuming the sponsor provides adequate information for analysis. If adequate information is not provided, the Association will use standard benchmark data.

#### **4.18 Succeeding Year Credit Application Round**

During the September Application Round, sponsors may compete for succeeding year credit, provided all current year credit is reserved or committed. If all current year credit is not reserved or committed, the Association may select, from the applications submitted, a development(s) that meets threshold requirements and can meet carryover allocation requirements before year-end. Remaining applications will be subject to a competitive selection process to receive reservations of succeeding year credit.

## **SECTION 5 - SPECIAL NEEDS SET-ASIDES AND 30% ELIGIBLE BASIS INCREASE**

The Association has established set-asides for developments that target low-income housing needs or which have certain designated characteristics.

### **5.1 Nonprofit Set-Aside**

At least 25% of the per capita tax credit will be set aside for qualified nonprofit organizations. If sufficient applications are not received, only the federally-mandated 10% set-aside will be applicable, and any additional unreserved set-aside will be made available for all qualified applicants. Unused federally-mandated nonprofit credit cannot be reserved to for-profit sponsors. Refer to Exhibit A for distribution summary.

At its sole discretion, the Association may provide latitude in the sponsor's application and/or provide appropriate assistance in order to facilitate allocation of the nonprofit set-aside.

#### **5.1.1 Federally Mandated 10% Set-Aside**

Federal program regulations require a minimum 10% annual set-aside to developments where a qualified nonprofit organization is to own an interest in such developments. In order to qualify for the federally mandated non-profit credit set-aside, an organization must meet the following requirements:

- a) the organization must be tax exempt under 501(c)(3) or 501(c)(4) of the Internal Revenue Code;
- b) the fostering of low-income housing must be one of its organizational purposes;
- c) such organization must be determined by the Association not to be affiliated or controlled by a for-profit organization;
- d) the organization must own an interest in the development (directly or through a partnership);
- e) the organization must materially participate in the development and operation of the development throughout the compliance period;
- f) the development must be perpetually affordable;

*Perpetual Affordability* is defined as the economic life of the property without major rehabilitation being required, or 40 years, whichever is longer.

- g) the nonprofit organization or its wholly-owned subsidiary or affiliate must have a majority ownership of the general partner ownership and be the managing general partner; and
- h) at the end of the initial fifteen-year compliance period, a qualified 501(c)(3) nonprofit organization or local governmental agency must have a first right of refusal to purchase the property at a price which provides for a reasonable return on investment (generally not exceeding 25% per year), including any tax consequences of the limited partner(s) or co-general partner, and the balance of outstanding indebtedness.

### **5.1.2 Competition in Non-Targeted Category**

Nonprofit organizations may also compete for non-targeted tax credits.

### **5.1.3 Safe Harbor Guidelines**

In order to meet the safe harbor guidelines prescribed by the Internal Revenue Service, all developments receiving nonprofit set-aside credit must designate at least 75% of the residential units as affordable to persons at or below 60% of the area median income.

## **5.2 USDA Rural Development Set Aside**

10% of the annual per capita tax credit ceiling will be set aside for developments financed and/or guaranteed by USDA Rural Development funds and located in rural communities with populations not exceeding 20,000 as set forth in the most recent census report. This set aside does not apply to cities adjacent to one or more other cities if both populations, when added together, exceed 20,000. The set-aside will be available on a statewide basis during the September Application Round if sufficient applications are received, otherwise, it will be available for all other qualified applications.

## **5.3 Authority to Reduce Set-Asides**

If maintaining the set-asides listed above jeopardizes the Association's ability to effectively allocate credit during the calendar year, the Association may eliminate or reduce the set-asides to federally mandated levels.

## **5.4 Eligible Basis Increase (up to 30%) for Certain State Designations**

The following criteria shall be used in determining the state-designated increase in eligible basis only in an amount necessary (up to 30%) for financial feasibility as enacted in H.R. 3221, The Housing and Economic Recovery Act of 2008:

- a) Developments located within a community with a population not exceeding 20,000 as set forth in the most recent census report. This criteria does not apply to cities adjacent to one or more other cities if both populations, when added together exceed 20,000, OR
- b) Developments with total rent-restricted units which are committed by the Low Income Housing Tax Credit Regulatory Agreement to an average AMI percentage at or below 45%, OR
- c) Developments that rehabilitate existing rental units, provided that minimum requirements mentioned in Section 4.17 are met.

**NOTE:** The category is not intended to override or supersede federally-designated DDAs or QCTs.

IHFA reserves the right to change criteria if further guidance from the National Council of State Housing Agencies ("NCSHA") finds the current state-designated criteria unacceptable.

## **SECTION 6 - SELECTION CRITERIA POINT SYSTEM**

**NOTE:** Do not include manager unit(s) in any calculations in Section 6. In calculating percentages, "total residential units" includes all rent-restricted and market units (and excludes manager or employee units). "Rent restricted" units includes both Tax Credit and HOME units.

### **6.1 Competitive Ranking**

All developments that meet and pass the application thresholds by the Association, including those competing for set-asides, will be ranked according to the number of points received through a Selection Criteria Point System which has been determined by the state's low-income housing priorities as designated by Idaho's Five Year Strategic Plan, and which includes the categories required under amended §42 of the Internal Revenue Code:

- a) Development Location;
- b) Housing Needs Characteristics;
- c) Development Characteristics including whether the development includes the use of existing housing as part of a community revitalization plan;
- d) Sponsor Characteristics;
- e) Tenant Populations with Special Needs;
- f) Tenant populations of individuals with children;
- g) Public Housing Waiting Lists;
- h) Developments intended for eventual tenant ownership'
- i) The energy efficiency of the development; and
- j) The historic nature of the development

### **6.2 Point Threshold**

**Developments must achieve at least 145 points to receive a credit reservation. Developments with less than 145 points will be disqualified. The Association may, at its sole discretion, waive this requirement after the February Application Round for current year credit. The aggregate Selection Criteria Points established by the Association at the time of the initial tax credit reservation must be maintained throughout each evaluation stage of the allocation process or the tax credits will become nullified. Refer to Section 4.2.**

### **6.3 Rounding**

When determining points awarded in categories which stipulate certain percentages or numbers, fractions will be considered. In cases where the calculation results in numbers of units any fraction will be rounded upward to the next whole number.

**6.4 Selection Criteria**

- 1. Developments that qualify for Section 42 Nonprofit Setaside and also have Idaho Residency Sponsorship.....15

NOTE: Language that assures **that the nonprofit sponsor will have majority-controlling vested ownership interest throughout the extended use period** will be included in the LIHTC Regulatory Agreement.

*Sponsorship* is defined to include the owner and, if a partnership, the managing general partner and all co-general partners of the owner or the parent corporation of the managing general partner and all co-general partners of the owner, or if an owner is a limited liability company, such terms also include the limited liability company and all managing members or managers of the limited liability company, and if owner is a corporation, such terms include the president and vice president of the corporation.

*Idaho Residency* means an individual person maintaining his or her principal residence in Idaho or an (the) entity which is organized under the laws of Idaho and which also maintains a (its) principal office in Idaho at the time of application.

*Principal office* is defined as a staffed office physically situated in Idaho in which one or more principals maintains a regular, daily office from which they conduct their business.

- 2. Developments which give preference to persons on Public Housing Authority waiting lists.

To receive points in this category, attach a copy of the proposed development's Management Plan which includes a Tenant Selection Policy that specifically states that a preference will be given to potential tenants on Public Housing Authority waiting lists. Preference must be stated as a percentage of total residential units.

Preference given for 30% to 60% of total residential units.....5

Preference given for 61% or greater of total residential units..... 10

- 3. Developments with mix of rent-restricted and market- units.

10-19% of total residential units are market units .....5

20% or greater of total residential units are market units ..... 10

- 4. Sponsor is a resident of Idaho.....15

*Sponsor* is defined to include the owner and, if a partnership, the managing general partner and all co-general partners of the owner or the parent corporation of the managing general partner and all co-general

partners of the owner, or if an owner is a limited liability company, such terms also include the limited liability company and all managing members or managers of the limited liability company, and if owner is a corporation, such terms includes the president and vice president of the corporation.

*Resident* means an individual person maintaining his or her principal residence in Idaho or an (the) entity which is organized under the laws of Idaho and which also maintains a (its) principal office in Idaho at the time of application.

*Principal office* is defined as a staffed office physically situated in Idaho in which one or more principals maintains a regular, daily office from which they conduct their business.

5. Developments designed for special needs populations (elderly, handicapped, mentally ill, developmentally disabled) and/or which provide continuing supportive services to assist families in becoming more self-sufficient or which address identified tenant needs as follows: ..... 15

Special Needs:

- a) Developments with 25% of the rent restricted units designed solely to provide independent living opportunities for persons with mental, physical or developmental disabilities provided there is a Supportive Services Plan with an established organization to provide services for such persons. Copy of the Supportive Services Plan, as defined below, which illustrates how the development will provide services needed by the tenant population must be submitted in the application, **OR**
- b) Developments which provide 100% of the total residential units designed and dedicated for elderly persons 62 years of age or older. Persons with disabilities may also be eligible occupants. Copy of the Supportive Services Plan, as defined below, which illustrates how the development will provide services needed by the tenant population must be submitted in the application, **OR**

**Elderly Family.** Elderly family means a family whose head or spouse or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Person.** An elderly person is a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

**Persons with Disabilities.** A disabled family is a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

For more detailed definitions, please refer to the HUD Occupancy Requirements of Subsidized Multifamily Housing Programs Handbook, 4350.3 REV-1, Chapter 3: Eligibility for Assistance and Occupancy, Section 3-17.

- c) Developments designed and operated for occupancy where at least 80% of the total residential units are occupied by at least one person 55 years of age or older. A copy of the Supportive Services Plan, as defined below, which illustrates how the development will provide services needed by the tenant population, must be submitted in the application.

Supportive Services:

The costs of the services provided must be funded outside the operations of the property.

*Self-sufficiency* is defined as the ability to improve economic stature to decrease reliance on government assistance.

It is at the sole discretion of the Association to ascertain whether points will be awarded in this category.

**To be considered for points in this category, sponsors must submit the following:**

- **Completed Exhibit F – Supportive Services Plan from the Tax Credit Application, and**
- **Executed commitment letter or memorandum of understanding from a supportive services provider that: 1) outlines the services provided, 2) gives the background and experience of the provider in providing the proposed services, 3) mentions how often and where the services will be provided. Please note that supportive services must be offered on an on-going and regular basis, i.e., monthly or weekly, and not just once a year, and the majority of supportive services must be offered on the development site. In the event that the development is an existing structure and the original design did not accommodate a community room concept, the Association will consider an off-site alternative.**

**Note: *The Regulatory Agreement will restrict use of the development in accordance with this section.***

- 6. Family developments which designate at least 5% of the rent-restricted units to three-bedroom or larger units for households earning no more than 50% of area median income. Such developments must provide all appropriate amenities for children and families (i.e., open space, playground, laundry, etc.) ..... 5

- 7. Developments that rehabilitate existing federally assisted rental units. To be awarded these points the application must meet the rehabilitation requirements as defined in Section 4.17 ..... 10
- 8. For those tax credit applications that include another federally-based funding resource and/or subsidy, the following points will be awarded if the Sponsor has obtained appropriate approval of the federally based funding resources and/or subsidy prior to applying for tax credits. The application must provide written evidence of the approval and any and all terms and conditions associated with the approval ..... 10
- 9. Developments located outside of a Difficult to Develop Area or Qualified Census Tracts, or developments that don't qualify for the state-designated increase in eligible basis as mentioned in Section 5.4. (This category recognizes the economic difficulty of funding without the up to 30% increase in eligible basis.)..... 10
- 10. Developments which utilize private or community grants in an amount of \$10,000 or more, or developments which utilize other community, state, or federal housing assistance programs (i.e., Section 8, CDBG, USDA Rural Development 515 or 538, FHLB Affordable Housing Program, etc.\*), in conjunction with the tax credit. Documentation regarding proposed conditions and terms of the grant or other funding must accompany the tax credit application..... 10

NOTE: Hard cost material or professional service donations will not be considered as grants for this particular point category. Additionally, grant funds must not be conditioned upon the award of a side contract.

\*Tax exempt bond financing, Historic Tax Credits, HOME, or Association financing will not be considered "other state or federal housing assistance programs" for this particular category. Additionally, a single funding source cannot receive points for both #10 and #11.

- 11. Developments which receive local government assistance in an amount not less than 5% of the Total Development Cost\* (i.e., land donations, cash, or tax increment financing). For purposes of this category, state allocated CDBG or Idaho State Participating Jurisdiction HOME funds are not considered as eligible assistance..... 20

\* Total Development Cost does not include Developer Fee or Development Reserves.

- 12. Readiness Points:
  - a) Evidence of zoning approval for development as intended. .... 10

If zoning requires a conditional use permit, the evidence of application for such permit must be included in the tax credit application.

*Developments requiring zone changes or annexation do not meet readiness criteria.*

- b) Site control by Sponsor as evidenced by an earnest money agreement or other legal documents evidencing site control.....10

*Sponsor* is defined to include the owner and, if a partnership, the managing general partner and co-general partners of the owner or the parent corporation of the managing general partner and co-general partners of the owner, or if the owner is a limited liability company, such terms also include the limited liability company and managing members or managers of the limited liability company, and if owner is a corporation, such terms include the president and vice president of the corporation.

- 13. a) Previous program sponsors who have consistently completed their §42 development(s), and who are maintaining their development(s) in compliance with tax credit regulations.....15

Out-of-state sponsors will be required to provide references from Housing Financing Agencies acknowledging sponsor's track record and that their developments are in compliance. The sponsor will provide IHFA with the authorization to contact said Housing Finance Agencies. Completed development(s) are defined as development(s) which have received a Certificate of Occupancy, and development(s) will be deemed in compliance unless a review has evidenced substantial noncompliance; **OR**

- b) Sponsors who have previous housing development experience (at least a 24-unit multifamily complex) in the State of Idaho .....5

*Sponsor* is defined to include the owner and, if a partnership, the managing general partner and all co-general partners of the owner or the parent corporation of the managing general partner and all co-general partners of the owner, or if the owner is a limited liability company, such terms also include the limited liability company and all managing members or managers of the limited liability company, and if owner is a corporation, such terms include the president and vice president of the corporation.

- 14. Developments with 36 or fewer total residential units in rural areas with populations of not more than 20,000 as defined in most recent census report. The adjusted census data should not be more than 18 months old and be updated from a reliable source (i.e., Idaho State Department of Commerce, U.S. Census Bureau). This category does not apply to cities adjacent to other cities if both populations, when added together, exceed 20,000. ....10

- 15. Developments located within a certified urban renewal district or other city-designated geographic area that specifically addresses affordable housing as a goal. To receive points in this category, documentation from the urban renewal district or the city must confirm to the Association's

satisfaction that the proposed development lies within certified boundaries and meets the urban renewal district's or city's goal of providing affordable housing. ....10

16. Developments intended for eventual tenant ownership after the 15-year compliance period has ended .....5

Developments wishing to convert to home ownership at the end of the 15-year compliance period will be required to meet the following conditions:

- a) The units must be single-family detached units, condominiums, or townhouses;
- b) Intention to convert must be expressed in writing at the time of application;
- c) Purchasers must occupy units as primary residences; and
- d) A comprehensive plan must be submitted at the time of application that demonstrates the feasibility of physical conversion to home ownership and includes, but is not limited to:
  - Provisions for repair or replacement of heating systems, water heaters, and roof repair or replacement prior to sale;
  - Requirements for extent of stay in rental unit to be eligible for purchase;
  - Financial counseling plan for potential home buyers;
  - Market and unit pricing strategy for conversion; and
  - Any limitations established for seller equity.

17. Developments which incorporate the following optional "green building" certifiable program standards or items into their design. To receive points in this category, a licensed architect's "preliminary" certification that lists the standards or items to be incorporated must accompany the application (See Exhibit C-2 for required format). At placed in service, an "as built" certification by a licensed architect that lists the incorporated standards or items will be required along with official program certification, if applicable. (See Exhibit D-2 for required format.)  
*NOTE: The intent is that all code and standards cited are the most current versions.*

LEED (Certified or higher level).....20  
 Energy Star NW.....15  
 ICC 700 National Green Building Standard.....15  
 Enterprise Green Communities.....15

OR

IHFA Green Building Criteria  
Up to a maximum of 15 points.  
 (Select any combination of the following items)

- Developments where 50% or more of their total lighting fixtures are Energy Star rated.....1
- HVAC equipment that meets Energy Star for Homes requirements .....2
- Water saving shower heads, toilets, faucets.....2
  - Bathroom faucets:            $\leq$  1.0 gpm
  - Kitchen faucets:            $\leq$  1.5 gpm
  - Toilets:                    $\leq$  1.3 gpf or dual-flush toilets
  - Shower heads:            $\leq$ 1.75 gpm
- Green label certified carpet.....1
- Harvesting 15% of rainwater runoff from roof for landscape irrigation use.....1
- High Efficiency HVAC filters .....1
- Electric or Gas tankless water heaters .....2
- Xeriscape landscaping and high efficiency irrigation.....1
- U-0.30 or lower rated windows (total assembly) .....2
- Wall and ceiling insulation that provides a 20% increase over minimum code (based on ResCheck or HERS rating at placed-in-service/cost certification date) .....2
- Metal or long lasting roofing (30 year warranty – minimum) or Energy Star roofing .....1
- Enhanced mechanical ventilation (Heat Recovery or Continuous Ventilations).....2
  
- 18.   Developments which utilize Historic Rehabilitation Tax Credit as a funding source. To receive points in this category, certification from the National Park Service must accompany the application which: 1) states that the proposed building is a certified historic structure (one listed on the National Register of Historic Places or located in a Registered Historic District and determined to be of significance to the Historic District) as defined by IRC Section 47(c)(3)(A); and 2) states that the proposed rehabilitation meets the Department of Interior’s standards for rehabilitation .....10

**6.5 Preference Points**

The Code also requires that, during the selection process, preference is granted to developments which serve the lowest income tenants and/or which are obligated to serve low-income tenants for the longest periods and/or located in a

qualified census tract in which the development contributes to a concerted community revitalization plan. Accordingly, the Association will grant preference points to eligible developments as follows:

1. Developments which are obligated to provide low-income use beyond the eighteenth (18th) year of the compliance period. This obligation requires that owners of such developments may not invoke the sale provision (for the purpose of converting to market-rate use prior to the end of the thirty (30) year extended use commitment) until one (1) year before the final year of obligation and thereafter shall be subject to the three (3) year provisions regarding eviction and rent increase:

Example: 2 points for each year beyond 18 years, up to 44 points  
(i.e., 20 yrs. = 2 yrs. x 2 = 4 points)

This obligation will be set forth in the Regulatory Agreement.

**Note:** This obligation does not release owners from the extended use commitment which provides for compliance with §42 regulations for 15 years beyond the initial 15-year compliance period.

2. Developments with 40% area median income (AMI) units. Manager's unit not included in calculation.

Developments with 1-50 total residential units where at least 5% of the rent-restricted units are at 40% AMI .....10

Developments with 51 or more total residential units where at least 10% of the rent-restricted units are at 40% AMI .....10

3. Developments with 45% area median income (AMI) units. Manager's unit not included in calculation.

Developments with 1-50 total residential units where at least 2.5% of the rent-restricted units are at 45% AMI .....10

Developments with 51 or more total residential units where at least 5% of the rent-restricted units are at 45% AMI.....10

4. Developments with 50% area median income (AMI) units. Manager's unit not included in calculation.

Developments with 1-50 total residential units where at least 5% of the rent-restricted units are at 50% AMI .....5

Developments with 51 or more total residential units where at least 10% of the rent-restricted units are at 50% AMI .....5

**Note:** The Regulatory Agreements for developments designating units under preference items 2, 3 and 4 above will state the number of units restricted to lower rent levels. 30%, 35%, 55%, and 60% area median income (AMI) units will also be mentioned in the Regulatory Agreement even though preference points are not awarded for these units. Rent restrictions

will be effective for such units during the initial compliance period and the extended use period.

Sponsors are expected to disperse units targeted for 30%, 35%, 40% and 45% area median income households throughout the development to the extent possible taking into consideration other programmatic requirements. Allocating such units so that one building(s) is/are 100% occupied by households at 30%, 35%, 40%, and 45% of area median income is not recommended.

- 5. Developments located within a qualified census tract in which the development contributes to a concerted community revitalization plan .....10

A concerted community revitalization plan is defined as a certified urban renewal district or other city-designated geographic area located within a qualified census tract that specifically addresses affordable housing as a goal. To receive points for this category, documentation from the urban renewal district or the city must confirm to the Association's satisfaction that the proposed development lies within certified boundaries and meets the urban renewal district's or city's goal of providing affordable housing.

**6.5.1 Economic Feasibility**

Financial pro formas for developments receiving points in Section 6.5 categories 2, 3 and 4 above must demonstrate economic feasibility. Sponsors must carefully assess the impact of the lower rents on their development to be certain they have not jeopardized feasibility in an attempt to achieve a high point score. If the Association, at its sole discretion, determines that a development fails to demonstrate economic feasibility based upon the Association's underwriting parameters, the application will be declined.

## **SECTION 7 - DEVELOPMENT EVALUATION**

### **7.1 Evaluation of Developments to Determine Credit Awarded**

Developments which are selected through the Selection Criteria Point System will be evaluated to determine the amount of tax credit applicable to that development. Pursuant to amended §42 of the Internal Revenue Code, the amount of credit available for a development may not exceed the amount necessary for its financial feasibility and its viability throughout the credit period. Allocating agencies must also consider the reasonableness of developmental and operational costs as an additional factor in making determinations as to the proper amount of credit to be allocated. Reasonable costs are amounts necessary to develop or manage an affordable housing complex which are neither excessive nor deficient.

### **7.2 Evaluations Stipulated by Section 42 of the Code**

Regulations require that allocating agencies conduct evaluations at three specific times to determine the amount of applicable credit:

- a) Upon receipt of an Application for Low-Income Housing Tax Credit Reservation;
- b) Prior to granting a Tax Credit Carryover Allocation; and
- c) No earlier than 30 days prior to awarding the Tax Credit Certification, IRS Form 8609.

### **7.3 Evaluation Components**

During each evaluation, the Association will determine the amount of credit to be reserved, committed or allocated by considering the following components of each development:

- a) Developmental costs; and
- b) Funding sources available to the development for construction and permanent financing:
  1. Loans,
  2. Grants,
  3. Tax Credit Proceeds,
  4. Owner Equity; and
  5. Subordinate debt.

*An evaluation will be conducted on the development to determine if the housing sponsor has received better lending terms than what was submitted at the time of application and reservation. If this is the case, a reduction of tax credits may result due to the improved lending terms.*

- c) Percentage of the tax credit dollar amount used for development costs other than the cost of intermediaries (Intermediary costs are defined as: syndication related organizational costs.);
- d) Projected operating income and expense, cash flow and tax benefits;
- e) Maximum tax credit eligibility;
- f) Debt Service Coverage Ratio compared to lender requirements or commercial lending practices, as applicable;

- g) Development Reserves; and
- h) Contractor overhead and profit.

### **7.3.1 Developmental Costs**

Developmental cost will be evaluated against industry cost standards, average costs of competing developments and the Association's cost standard. Developments with unusual costs (i.e., retaining walls, elderly developments, etc.), or costs which may exceed the Association's cost standard, must provide information acceptable to the Association which justifies such excess costs. Developments with excessive costs will be subject to adjustments to the amount of tax credit requested. The Association's goal is to utilize the tax credit resource to promote the development of quality multifamily rental housing. Applications which propose developments with construction costs that are substantially below costs typical in the market place will be rejected.

### **7.3.2 Cost Standard**

The Association's cost standard shall be based upon the costs of multifamily units in each of the four Idaho regions adjusted periodically by the inflation rate recommended by Marshall & Swift, or other industry standards approved by the Association. This standard will apply to all developments regardless of unit type (i.e., single family dwellings located in subdivisions or large scattered site developments will be limited to the multifamily benchmark).

IHFA reserves the right to require an independent third-party estimate, at sponsor's expense, of proposed development costs that exceed IHFA benchmarks by greater than 40% any time during the tax credit allocation process.

### **7.3.3 Tax Credit Proceeds**

At the time an application for a reservation of credit is submitted, a copy of the letter of intent and the proposal by the syndicator is required. See Exhibit B, Section A, Item 1(a) for documentation requirements. Copy of the final Placement Memorandum or Syndication Agreement must be provided to the Association no later than the date the sponsor applies for placed-in-service allocation.

### **7.3.4 Adjustments to Credit Allocations**

When actual tax credit proceeds are determined, there may be adjustments to the credit reserved. (The credit will not be increased beyond the amount originally reserved unless an additional credit application is submitted and awarded.) Tax credits will not be allocated to developments in excess of the amount necessary to fund the equity gap as determined by the Association using the value of the credit (expressed as a percentage of the total 10-year credit). If actual development costs or funding sources differ substantially from the projections submitted in the application, the Association may reduce the final credit allocation or the sponsor may establish development reserves (subject to Association limitations) to offset the deficit if the development has sufficient credit eligibility. The conditions for such reserve accounts will be determined on a case-by-case basis.

**7.3.5 Developer Fees**

New Construction:

Developer fees for new construction may not exceed the percentages as identified in the table below. Developer fee shall include: Developer overhead and profit and consultant fees for services normally performed by the developer. Developer fees will be restricted to the same amount as reflected on the original application.

* Total Units (including manager/employee units)	Maximum Development Fee as a percentage of Total Eligible Basis (before 30% increase) excluding the proposed Development Fee
1 – 50 units	15%
51 or more units	12%

Acquisition/Rehabilitation:

Developer fees for acquisition rehabilitation developments may not exceed the percentages as identified in the tables below:

	Maximum Acquisition Development Fee
For all acquisition/rehabilitation developments	5% of Total Acquisition Eligible Basis* excluding the proposed Acquisition Developer Fee

\*Acquisition Eligible Basis will be limited to the lesser of the sale price or the appraised value of the property as determined by a third-party MAI appraiser less appraised land value and dollar balance of any reserves that will be transferred with the property. Such appraisal must include both an “as is” restricted market value and an “as is” unrestricted market value (net of appraiser recommended repairs) of the existing development with land value broken out separately.

For clarification purposes, a previously completed appraisal can be used to determine property value, provided: 1) the appraisal report is less than six months old, and 2) the appraisal comprehensively addresses the requirements listed in the previous paragraph. An update will be allowed up to six months after the date of the original appraisal, although in no instance will the Association accept an appraisal beyond 12 months of the original date.

	Maximum Rehabilitation Development Fee
For all rehabilitation developments	15% of Total Rehabilitation Eligible Basis(before 30% increase) excluding the proposed Rehabilitation Developer Fee

**7.3.6 Increased Eligible Basis**

Up to a 30% increase in eligible basis will be considered for developments located in HUD designated "Difficult to Develop Areas" or "Qualified Census Tracts", if deemed necessary by the Association for the financial feasibility and viability of the proposed development. This increase is also available to developments that meet the state-determined criteria mentioned in Section 5.4, provided again that the increase in eligible basis is deemed necessary by the Association for the financial feasibility and viability of the proposed development.

**7.3.7 Third Party Reserves (Escrows) Included in Development Costs**

Reserves (escrows) will only be considered a cost item when required by Lender or Syndicator and mentioned in the letter of intent or commitment that is submitted with the application for tax credits.

**7.3.8 Contractor Fees**

Contractor fees shall be limited to 14% of construction costs, and typically be segmented as follows:

Type	Maximum Fee
General Requirement	6% of Construction Costs
General Overhead	2% of Construction Costs
Contractor Profit	6% of Construction Costs
<b>TOTAL CONTRACTOR FEES</b>	<b>14% of Construction Costs</b>

Construction costs include site work, new construction or rehabilitation, and contingency, and exclude contractor profit, overhead, and general requirements.

**7.3.9 Architect and Engineering Fees:**

Architect and Engineering Fees shall be limited to 8% of construction costs, and typically be segmented as follows:

Service	Maximum Fee
Architect Fee	4% of Construction Costs
Engineering Fee	4% of Construction Costs
<b>TOTAL</b>	<b>8% of Construction Costs</b>

Construction costs include site work, new construction or rehabilitation, and contingency, and exclude contractor profit, overhead, and general requirements.

**7.3.10 Identity of Interest:**

In cases where the development team consists of entities whose individual principals are also principals in other entities of the development team, and thus must be identified in the application as having an "Identity of Interest", the following general rule will apply.

Developer and contractor fee will be limited in any case where a potential identity of interest can be determined to exist, (as set forth in the matrix below).

Such identities may be considered automatically to occur in the following cases:

- When the sponsor, developer, or consultant have any principals in common with the contractor.

Principals are defined as individual owners, shareholders, directors, officers, employees, or authorized representative of said legal entity.

Total Units (including manager/employee units)	Developer Fee as a percentage of Eligible Basis (before 30% increase)	Contractor Fee** as a percentage of construction/rehabilitation costs
New Construction 1 - 50 units	15%	10%
New Construction 51 or more units	12%	8%
Acquisition/Rehabilitation All developments	5% Acquisition & 15% Rehabilitation	10%

\*\*Contractor Fee percentage calculated using the formula in Section 7.3.8.

### 7.3.11 Operating Expenses, Replacement Reserves and Debt Service Coverage

The Association will review the projected operating expenses (refer to Section 4.9.2 Economic Feasibility Threshold), replacement reserves\* and loan terms and may, in its determination of economic feasibility, make adjustments based upon industry standards, its own underwriting parameters, or facts obtained from other appropriate sources. Sponsors are urged to carefully review operational cost pro formas and include only achievable loan terms in their applications. Sponsors must include real estate taxes in their operating expenses, unless evidence of a perpetual real estate tax waiver (throughout the terms of permanent financing) is submitted with the application. Sponsors must also include costs of on-site resident manager's unit.

\*The replacement reserve requirement shall not be less than the benchmarks listed in the following matrix. However, the Association will require the greater of: 1) the benchmark mentioned below, 2) the replacement reserve requirement of the Tax Credit equity provider and/or the permanent lender, or 3) the replacement reserve requirement of the Physical Needs Assessment (for rehabilitation developments).

Development Type	Family	Elderly
New Construction	\$300 per unit	\$250 per unit
Rehabilitation	\$300 per unit	\$300 per unit

### **7.3.12 Subordinate Debt**

Sponsors who are proposing subordinate debt must include the terms of the loan, and pro formas must reflect the ability to repay the subordinate debt within the debt service ratio required by the first lien lender or recognized industry debt service coverage ratios for combined debt.

### **7.3.13 Sources and Uses**

Sponsor must provide a letter of intent or commitment (from the Lender(s) and Syndicator(s) for the investment of all required equity and loan funds in the development. Said document(s) to identify and outline the specific terms (i.e., pricing, costs, structure, equity injection schedule, etc.) either being offered or proposed by the Lender(s) and Syndicator(s) (See Exhibit B, Section A, Item 1(a)).

### **7.3.14 Amenities**

Sponsors shall disclose the costs of a swimming pool and/or hot tub in the application under "site costs – other," as the Association considers this as a luxury development amenity and at the sole discretion of the Association, may or may not be counted as part of eligible basis. The Association will review this amenity as it pertains to competing developments in the market area and its inclusion in basis will depend on local market conditions and the Association's assessment.

- Construction of an on-site community laundry facility will be required solely for the benefit of the tenants.
- Any development amenities will be solely for the use of the development and, therefore, shared or common-use agreements are not acceptable (i.e., community rooms, laundry facilities, etc.)

## **7.4 Factors Limiting the Credit Reservation**

The amount of Credit reserved to a development will be the lesser of:

- a) The Maximum tax credit eligibility of the development;

*Maximum tax credit eligibility* is the maximum amount of credit justified by a development's qualified basis taking into consideration any difficult-to-develop allowance and the tax credit percentage rate.

- b) The amount necessary to fill the funding gap; or

The funding gap is the difference between total development costs (exclusive of syndication related costs) less all available funding sources provided such sources are within reasonable industry norms (i.e., financing for the development has been maximized when evaluating rate, term, debt service coverage, loan to values etc). The funding gap will be covered by tax credit proceeds giving a net-present value to the 10-year credit based upon the method of marketing (public, private or sponsor utilization); or

- c) The amount of credit which generates no more than a 20% annual internal rate of return.

If the annual internal rate of return exceeds 20%, the annual credit will be reduced. For purposes of this calculation, internal rate of return will be calculated over a 15-year period recognizing capital contributions, all development benefits including tax losses, after-tax cash flow, and tax credits without consideration of residual property value or remaining debt.

## **7.5 Requests for Re-Evaluation**

If a development sponsor disagrees with the Association's findings regarding the denial or amount of tax credit reservation or conditional commitment (for tax exempt bond developments), the sponsor may request a re-evaluation of the Association's decision in writing within ten (10) business days of receipt of the Association's findings, by submitting a written request to the Tax Credit Department, Idaho Housing and Finance Association, P. O. Box 7899, Boise, Idaho 83707-1899.

In the event the sponsor makes a re-evaluation request, the ten (10) business day period for reservation acceptance will be extended. Sponsors who accept the reservation are, by such acceptance, acknowledging acceptance of the Association's determination of the credit amount.

## **7.6 Appeal Process**

If after receipt of the Association's re-evaluation, the sponsor wishes to appeal the decision, they may do so no later than ten (10) business days after the receipt of the re-evaluation findings by providing a concise outline addressed to the Association's President/Executive Director at P.O. Box 7899, Boise, Idaho 83707-1899. The appeal of a sponsor is deemed filed when it is received by the President/Executive Director at the above-stated address. Failure to file a timely appeal shall constitute a waiver of the right to an appeal. The President/Executive Director shall review the appeal and may, if requested in writing by sponsor, schedule an informal hearing with the sponsor to allow the sponsor to present additional information and to ask questions of the Association's staff. The President/ Executive Director may assign another staff member to conduct the informal hearing. The President/Executive Director will make a good faith effort to respond to the appeal within twenty (20) business days from the date of receipt. In the event an appeal is filed, the President/Executive Director may delay the award of the credit to other sponsors until he has had a chance to review the appeal.

## SECTION 8 - COST CERTIFICATION

### **8.1 Applicability of Cost Certification**

Prior to issuance of the Low-Income Housing Credit Allocation Certification (IRS form 8609), for developments requesting Allocation Certification, the Association will require a cost certification prepared by an independent third-party Certified Public Accountant.

#### **8.1.1 Cost Certifications Completed by Other Fund Providers**

If a cost certification has been provided for a lender, syndicator, Rural Development or HUD, a copy of such certification will be acceptable to the Association providing it meets the Association's requirements. In lieu of such certification, the form contained in Exhibit G shall be submitted to the Association. In any event, all certifications must include a certification signed by the accountant and acceptable to the Association which clearly indicates the method of certification and addresses all identities of interest.

### **8.2 Requirements**

The Cost Certification shall include the following:

- a) The accountant preparing the cost certification must certify that all costs are related to the development and do not include costs for organization, syndication or professional fees or consultant fees related to syndication;
- b) All fees, including the developer fee, paid to the developer or to an entity with an identity of interest with the developer must be clearly identified.
- c) If the land is purchased from a related party, the owner must submit an appraisal to substantiate fair market value;
- d) Legal fees related to land acquisition must be clearly identified;
- e) Interest expense related to land must be clearly identified; and
- f) The sources of all funding including loans and terms of said loans, tax credit proceeds, developer equity and all other sources must be certified.

### **8.3 Compilation of Cost Verification Data**

Cost Verification information must be compiled in an orderly fashion in accordance with cost categories set forth in the Low-Income Housing Tax Credit Application, utilizing the form set forth in Exhibit G.

### **8.4 Authority to Determine Maximum Qualified Basis**

The Association may challenge the costs provided in the Certification; impose the limitations set forth in this Plan and at its sole discretion determine the maximum qualified basis against which credit is allocated.

## **SECTION 9 - ARCHITECTURAL REQUIREMENTS**

### **9.1 Threshold Architectural Requirements**

In addition to local, state and federal laws, developments receiving tax credit allocations must, at a minimum, meet the requirements adopted by Idaho Housing and Finance Association ("IHFA") as set forth below and to be certified by an Idaho licensed architect (refer to Exhibit C-1 and Exhibit D-1):

*NOTE: The intent is that all code and standards cited are the most current versions.*

- Minimum Property Standards for Housing (HUD Handbook 4910.1)
- American National Standard Institute ICC A117.1
- International Energy Conservation Code
- International Building Code
- International Mechanical Code
- International Plumbing Code
- National Electrical Code
- Fair Housing Accessibility Guidelines
- Section 504 of the Rehabilitation Act
- Americans with Disabilities Act (ADA)
- Uniform Federal Accessibility Standards (UFAS)
- IHFA Green Building Requirements:
  1. Use of Low or no VOC paints, primers, adhesives, and sealants
  2. Energy Star rated refrigerators and dishwashers  
(100% with new construction, replacements with rehabilitation)
  3. 50% or more of the total lighting to be high efficiency bulbs/lamps (CFL, LED)
  4. Programmable thermostats in all units

## **SECTION 10 - DEVELOPMENT REVIEW**

### **10.1 On-Site Visits**

Association personnel or the Association's consulting architect may make on-site visits of the development during construction provided sponsor receives 24-hour notification. Said visits shall not interfere with construction progress.

### **10.2 Disclaimer of Liability**

The Association assumes no responsibility to make inspections during construction and assumes no liability for construction quality or code compliance. The standards set forth above are minimum requirements for tax credit developments but do not imply that such minimum standards assure minimum health or safety requirements. These are the responsibility of state and local jurisdictions and/or the development sponsor.

## **SECTION 11 - DEVELOPMENTS FINANCED BY TAX-EXEMPT BONDS**

### **11.1 Eligibility**

If 50% or more of a development's aggregate basis of buildings and land are financed with tax-exempt bonds, the development may receive a maximum 30% present value credit calculated against the development's qualified basis without causing a reduction in the state's annual credit ceiling. Tax-exempt bond developments are governed by the Tax Exempt Bond Administrative Plan and subject to evaluation within the guidelines of this Qualified Allocation Plan.

### **11.2 Processing**

Sponsors of developments financed by tax-exempt bonds may make application for tax credits at any time throughout the calendar year provided that there is Volume Cap available for the issuance of the bonds. Written evidence of available Volume Cap must accompany the application for tax credit. Tax-exempt developments will be reviewed by the Association under the procedures and threshold requirements set forth in this Qualified Allocation Plan, but will not be required to compete in the application rounds mentioned in Section 3.1. Although, if at the time of application, other development(s) are proposed for the same market area, tax credit will be awarded only if evidence found in submitted market studies indicates that there is sufficient market demand for all the proposed developments. If there is not sufficient market demand, the development(s) that receives the higher score under the Selection Criteria Point Threshold will be awarded the tax credit. Housing Sponsors are encouraged to request a copy of the Tax Exempt Bond Administrative Plan for additional requirements.

### **11.3 Allocation Requirements**

Tax-exempt bond developments will be subject to Development Evaluations and Cost Certification, and the amount of credit applicable to the development will be established by the Association. Consideration will be given to the sources and uses of the funds, any proceeds generated by reason of tax benefits, the total financing planned for the development and the percentage of the housing credit dollar amount used for development costs other than the cost of intermediaries. Provided the Association approves the Sponsor's application, a Conditional Commitment will be issued stating the credit determination of the Association subject to eligibility and compliance with §42 and related regulations. The Conditional Commitment must be accepted and returned to the Association within ten (10) business days of issuance and accompanied with the appropriate fee.

## **SECTION 12 - ALLOCATION LIMITATIONS**

### **12.1 Allocation and Application Limitations**

During the allocation process, the following limitations shall apply:

#### **12.1.1 Limitation on the Amount of Credit Awarded to Any One Sponsor or Developer**

The maximum annual tax credit allocation for any one sponsor or developer or any "related entities"\* utilizing credits, not only under the state credit ceiling, but those credits outside the state credit ceiling, shall be \$1,800,000 of cumulative credits which include the current year reservations, conditional commitments, and carryover allocations not yet placed-in-service. The cumulative credits will be defined as all credits outstanding until the entire development is complete, and is typically evidenced by issuance of certificates of occupancy for all the buildings. This limitation is effective during the September, February, and Summer Application Rounds, but may, at the sole discretion of the Association, be waived if sufficient applications are not received and approved. In the event of co-sponsorship of a development, the tax credit amount awarded to the development will be proportionately divided between the co-sponsors and then be added to their respective cumulative tax credits not yet placed-in-service.

\*An entity is a "related entity" if a relationship exists between the sponsor, developer, general contractor, general partners or limited partners and such entity which would result in the disallowance of losses between related persons under Sections 267 or 707(b) of the U.S. Internal Revenue Code of 1986 as amended or if a sponsor, general contractor or developer, or the shareholders, members, general partners or limited partners thereof, own more than 10% of another entity which is a sponsor, general contractor or developer of a development.

#### **12.1.2 Limitation on the Amount of Credit Requested by Any One Sponsor.**

The maximum amount of tax credit requested by any one sponsor during a particular application round will be limited to \$850,000 or less of annual tax credit, regardless of the number of applications.

#### **12.1.3 Limitation on Transfers**

Tax credit reservations, conditional commitments, and/or carryover allocations may not be transferred, except as provided in Section 6.4 under Selection Criteria #1. It is anticipated that the developer and the general partner(s) designated in the application will participate in the development of tax credit developments, and any unapproved changes in developer or general partner status may result in forfeiture of the reservation, conditional commitment, or carryover allocation. An exception to this requirement will be made in the event the development is perpetually affordable and the Association is aware of, and agrees to, the anticipated transfer at the time of reservation.

#### **12.1.4 Site and Development Specificity**

Tax credit reservations and conditional commitments are site and development specific unless written approval of change is obtained from the Association.

Changes in development composition or changes in the project site may be approved provided the development remains within the same market area, and the development continues to achieve selection criteria points equal to or greater than those awarded to the original development. Material development changes or a site change will necessitate a re-evaluation of the development, and sponsors will be required to submit a revised application and an additional application fee. Those developments in the reservation stage will continue to be subject to the original reservation expiration date. (See Development Relief (Section 14.3) for any exceptions.) If HOME funds are awarded, the proposed development must meet HUD Site and Neighborhood Standards.

#### **12.1.5 Association's Right to Reject Applications**

Notwithstanding anything else herein to the contrary, the Association reserves the right:

- a) to reject any application for a tax credit if, in its sole discretion, the proposed development is not consistent with the goals of providing decent, safe and sanitary housing for low-income persons as set forth in its enabling legislation or does not meet the requirements of §42 of the U.S. Internal Revenue Code of 1986, as amended, and all regulations promulgated thereunder or, the Association may impose additional conditions on the application of any development in order that such development can meet said requirements;
- b) at its sole discretion, to reject or discount applications from previous program participants who have failed to complete their developments in accordance with the applications and/or certified plans presented to the Association; who have failed to effectively utilize allocated tax credits; or who have §42 developments in substantial noncompliance;
- c) to reject applications which, in the sole discretion of the Association are not consistent with the proper and effective utilization and allocation of the housing credit under the Qualified Allocation Plan and §42 of the Code; and
- d) to verify all information submitted in the application and to reject any applications which include misrepresentations or information which is not readily verifiable (the Association is under no obligation to conduct such verifications, but may do so at its option).

#### **12.1.6 Limitation of Liability**

No member, officer, agent or employee of the Idaho Housing and Finance Association nor any other official of the State of Idaho, including the Governor thereof, shall be personally liable concerning any matters arising out of, or in relation to, the allocation of Low-Income Housing Tax Credits or the approval or administration of this plan.

#### **12.1.7 Disclosure of Application Information.**

All information contained in an application and submitted with an application may be disclosed to the public by the Idaho Housing and Finance Association, with the exception that appraisals, if any, provided by a third party to IHFA may

be exempt from disclosure under the Idaho Public Records Act. However, in all events, the sponsor agrees that any market feasibility study submitted to IHFA shall be open to disclosure to the public, and the sponsor shall make whatever arrangements are necessary with the preparer of such study in order that such study may be disclosed. A “market feasibility study” is defined as a study required in order to assist the sponsor and/or IHFA to determine a need for, and marketability of, affordable units in the area where the development is to be located. An “appraisal” is defined as a study that includes a determination of the market value of the project for lending purposes.

A written explanation shall be available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the Association.

**12.1.8 Association Evaluation Is Not a Warranty**

Issuance of a tax credit reservation, tax credit conditional commitment, tax credit carryover allocation, or Low-Income Housing Allocation Certification (IRS 8609) by the Association shall not constitute or be construed as a representation or warranty as to the feasibility or viability of the development or the development’s ongoing capacity for success or any conclusions regarding any matter of federal or state income tax law.

## SECTION 13 – COMPLIANCE

### **13.1 Compliance Monitoring**

Sponsors/owners are responsible for ensuring compliance with all aspects of the Low-Income Housing Tax Credit (LIHTC) program. Additionally, all developments receiving Tax Credits are subject to compliance monitoring and reporting procedures by the Association. Specific guidelines pertaining to monitoring and reporting are included in the Low-Income Housing Tax Credit Compliance Manual that is made available to all development sponsors/owners. Sponsors/owners are strongly encouraged to obtain the Compliance Manual, and to become thoroughly familiar with all aspects of program compliance contained within the Manual.

The Low-Income Housing Tax Credit Compliance Manual is incorporated into this Qualified Allocation Plan by reference. The monitoring procedures contained therein, while not all-inclusive, provide a detailed outline of the processes that will be followed in determining compliance with the fundamental requirements of Section 42 of the Internal Revenue Code. They are subject to amendment or change in order to ensure continuing conformance with Internal Revenue Service requirements.

### **13.2 Compliance Procedures**

The Association's compliance monitoring procedures focus on multiple aspects of development operations comprised of daily rental operations and maintenance, annual activities, and requirements that span the life of the project. Areas and activities subject to review and monitoring include:

- *Record-Keeping*
- *Set-Aside Requirements*
- *Income-Qualifying Tenants*
- *Leasing Activities*
- *On-Going Occupancy*
- *Maintenance and Physical Condition*
- *Project Amenities*
- *Eligible Basis*
- *Overlay of Other Assistance Programs*
- *Dispositions of Tax-Credit Developments*
- *Reporting Program Non-Compliance*
- *Annual Costs of Monitoring*
- *Annual Reporting Requirements*
- *Monitoring Extended-Use Periods*
- *Submission of demographic and economic information on tenants residing in LIHTC-financed properties.*

Again, housing sponsors/owners are reminded that they are ultimately responsible for all aspects of compliance with Low-Income Tax Credit Housing program requirements. The Association's Compliance Manual is not an all-inclusive document, and should not be relied upon in lieu-of Section 42 LIHTC program provisions, rules, and requirements. The Manual is provided in order to disclose the procedures that will be followed in on-going monitoring of program compliance.

## **SECTION 14 - AMENDMENTS TO QUALIFIED ALLOCATION PLAN: MISCELLANEOUS**

### **14.1 Plan Amendments**

Upon approval by the Association's Board of Commissioners and in compliance with all applicable procedural requirements of §42 of the Internal Revenue Code, the Association may, prior to or during the allocation year, amend the Qualified Allocation Plan when changes are necessary to administer the Low-Income Housing Tax Credit Program to effectively serve the low-income housing needs in the state and to conform with amendments to §42 of the Internal Revenue Code. All program participants will be notified of amendments in writing.

### **14.2 Inconsistencies With Section 42**

If any provision of this Qualified Allocation Plan is inconsistent with the provisions of amended §42 of the Internal Revenue Code, including any future amendments thereto, or any existing or new regulations governing the tax credit, the plan will be amended accordingly and the Association's Board of Commissioners, the Governor and all program participants will be notified, in writing, of such amendments.

### **14.3 Development Relief**

The Association may on a one time basis per development, at its sole discretion, provide relief and/or assistance under this Qualified Allocation Plan, including without limitation, the return and reallocation of tax credit to accommodate a delayed construction schedule for developments that encounter hazards or disasters that may include floods, fire, or other acts of God that may delay the timely completion of the development. This may also include the disapproval or denial from local or public officials in regards to the development site.

The Association may determine and collect a reasonable fee to compensate for the loss of tax credit subsidy to the State if development relief results in the prohibition of participation in the National Pool.

## **SECTION 15 - HUD ASSISTED DEVELOPMENTS**

### **15.1 Reductions of Credit Required by Subsidy Layering Requirements**

Sponsors who receive tax credit reservations or allocations of Low-Income Housing Tax Credit in combination or conjunction with some form of HUD assistance are subject to Subsidy Layering Review requirements under §42 911 or §42 102 related to such transactions and the tax credit or HUD assistance may be reduced as necessary to satisfy HUD in accordance with its established subsidy layering guidelines.

### **15.2 Safe Harbor Limitations**

Subject to development evaluation and a determination that Safe Harbor limitations will prohibit the development of the development, the published Safe Harbors in §42 911, Subsidy Layering Review Guidelines, will be, to the extent allowable, raised to "ceiling" standards for developer fees and syndication expenses. The builder's profit will be reviewed under the alternative methodology which corresponds with the limitations set forth in the Evaluation Section 7 herein.

## **SECTION 16 – QUALIFIED CONTRACT PROCESS**

### **16.1 Eligibility**

If such rights have not been waived in the Low-Income Housing Tax Credit Regulatory Agreement or said Agreement does not provide for such right, Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code allows the owner to opt out of the Low-Income Housing Tax Credit program after the compliance period ends, if the owner requests, and the Association, within a one year time period, is unable to present a “qualified contract” with a price determined under Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code as interpreted by the Association and calculated using the Association’s forms and directives, by a person or entity who is willing to purchase the development and maintain its affordability. The Association reserves the right not to permit the Qualified Contract in future Regulatory Agreements.

To guide the owner through the qualified contract process, the Association has developed a request form and worksheets that outline submission requirements. These forms may be obtained by contacting the Multifamily Finance Department. These materials are subject to change in order to comply with federal tax statutes and regulations.

Before requesting a qualified contract from the Association the following conditions must be met:

- The right to request a qualified contract in the year provided in the applicable tax credit regulatory agreement must not have been waived in the Low Income Housing Tax Credit Regulatory Agreement.
- The compliance period provided in the applicable tax credit regulatory agreement must be completed for all buildings. For developments with multiple buildings that were placed in service in different years, this means the end of the year provided in the applicable tax credit regulatory agreement of the last building in the development that was placed in service.
- The tax credit property must be in compliance with all Section 42 requirements. All violations must be corrected prior to the request.
- The development must secure a complete, unconditional waiver of all purchase options, including the right of first refusal from a nonprofit general partner.

The Association’s one-year period to find a buyer to acquire the low-income property shall not begin until a complete request has been submitted. Lack of cooperation by the Owner in the marketing of the development or in providing requested documentation will cause the qualified contract process to cease and will result in the development being held to the original requirements mentioned in the Low-Income Housing Tax Credit Regulatory Agreement.

### **16.2 Presentation of a Qualified Contract**

Once the Association presents a qualified contract to the owner with a price determined under Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code as interpreted by the Association and calculated using the Association’s forms and directives, the possibility of terminating the extended use period is removed forever and the property remains bound

to the extended use period mentioned in the Low-Income Housing Tax Credit Regulatory Agreement. There is no requirement in the Internal Revenue Code that requires that the prospective buyer actually purchase the property. Whether or not the seller executes a contract and closes the transaction is a separate, legally unrelated matter.

### **16.3 Release of the Low-Income Tax Credit Regulatory Agreement**

If the Association fails to present a qualified contract to the owner with a price determined under Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code as interpreted by the Association and calculated using the Association's forms and directives before the end of the one-year period, the development will no longer be restricted to the requirements of the Low-Income Housing Tax Credit Regulatory Agreement and will be free to convert to market. However, in accordance with Section 42(h)(6)(E)(ii) of the Internal Revenue Code, the owner may not evict or displace tenants of low-income units for reasons other than good cause and will not be permitted to increase rents beyond the maximum tax credit rents for a three-year decontrol period following the termination of the agreement.

Prior to the release of the Low-Income Tax Credit Regulatory Agreement, the Association will require correction of all instances of noncompliance with regard to the physical condition of the property and will also require certification from the owner that the tenants in the development have been notified in writing of their rights during the three-year period. The Association's Compliance Department will continue to monitor the development through the three-year decontrol period.

**EXHIBIT A: TAX CREDIT DISTRIBUTION SUMMARY**

**SEPTEMBER 2011 APPLICATION ROUND:** 1<sup>ST</sup> Round 2012 Credit. Governed by 2011 QAP.

Nonprofit Set-Aside:	15% of the State's estimated annual 2012 housing credit ceiling, if applications are received, otherwise any excess available for General Distribution.
Rural Set-Aside:	10% of the State's estimated 2012 housing credit ceiling, if applications are received, otherwise any excess available for General Distribution.
General Distribution:	50% of the State's estimated 2012 housing credit ceiling will be available to all qualified applications, including any current applications that may not have been funded through a specific Set-Aside category.

**FEBRUARY 2012 APPLICATION ROUND:** 2<sup>ND</sup> Round 2012 Credit. Governed by 2012 QAP.

General Distribution:	25% of State's 2012 housing credit ceiling will be available to all qualified applications, provided that the State's Nonprofit Set-Aside has been met in the September Round. If there is a deficiency in the Nonprofit Set-Aside, priority will be given to fully fund the Nonprofit Set-Aside with the balance of funds available to all qualified applications.
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**SUMMER 2012 APPLICATION ROUND (if needed):** 3<sup>RD</sup> Round 2012 Credit. Governed by 2012 QAP:

Remaining Credit:	Balance of 2012 housing credit available to all qualified applications.
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**SEPTEMBER 2012 APPLICATION ROUND:** 1<sup>ST</sup> Round 2013 Credit. Governed by 2012 QAP.

Nonprofit Set-Aside:	25% of the State's estimated annual 2013 housing credit ceiling, if applications are received, otherwise any excess available for for General Distribution.
Rural Set-Aside:	10% of the State's estimated 2013 housing credit ceiling, if applications are received, otherwise any excess available for General Distribution.
General Distribution:	40% of the State's estimated 2013 housing credit ceiling will be available to all qualified applications, including any current applications that may not have been funded through a specificSet-Aside category.

## **EXHIBIT B: APPLICATION REQUIREMENTS**

A. Application for Tax Credit Reservation or Tax-exempt Bond Conditional Commitment shall include:

1. Complete application form (current year), including, but not limited to:
  - a) Complete breakdown of the funds anticipated. Sponsor must provide a letter of intent or commitment from the Lender(s) and Syndicator(s) for the investment of all required equity and loan funds in the development. Said document(s) to identify and outline the specific terms (i.e., pricing, costs, structure, equity injection schedule, required reserves, etc.) either being offered or proposed by the Lender(s) and Syndicator(s) (See Section 7.3.13).
  - b) If applicable, documentation regarding the terms and conditions of proposed subsidies.
  - c) Documentation substantiating utility allowance calculations.
  - d) If requesting points for experience, out-of-state sponsors will be required to provide references from HFA's acknowledging the sponsor's Section 42 housing track record and that their developments are in compliance. The sponsor will provide IHFA with the authorization to contact these agencies.
  - e) 15-year pro forma that demonstrates appropriate debt service coverage each year to be deemed economically feasible. If HOME funds are requested, a 30-year pro forma is required.
2. Narrative description of the development;
3. Market Study and Feasibility Requirements. Sponsors will be required to obtain their market study from a provider who is listed on the Association's approved market study provider's list. For acquisition/rehabilitation developments, a previously completed MAI appraisal can be used to establish market feasibility provided; 1) the appraisal report is less than six months old, and 2) the appraisal addresses the development's ability to sustain occupancy at 93% or greater. An update will be allowed up to six months after the date of the original market study or appraisal, although in no instance will the Association accept a market study or appraisal beyond 12 months of the original date. The market feasibility criteria established within the plan will be strictly enforced as each application is reviewed. Please insure that the market feasibility report contains adequate support of its conclusion regarding projected incremental "new unit" demand within their targeted market area, and specifically addresses the following required topics within the analysis:
  - Analyze and evaluate the existing market place — using comparable existing and proposed developments; LIHTC and market rate developments (types, unit size and design characteristics, rents, vacancies, development timeframes for proposed developments, etc.);
  - Projection for absorption must be adequately supported by the incremental "new unit demand" for the type and design of the proposed development. In addition, the analysis must evaluate the overall effect of the proposed development on the existing rental market of the targeted area;
  - Affordability analysis must compare the proposed LIHTC units with comparable market rate units. In the event the analyst does not specifically

justify a projected comparable rent, but rather provides a broad range of rents for the comparables, please be advised that the Association will establish affordability by using the low end of the range;

- Proposed developments which are designed for, and are dedicated to, a targeted market segment (i.e., elderly) will be required to provide a targeted feasibility analysis; and
- Proposed developments that contain commercial space must provide an evaluation which substantiates the commercial demand, vacancy rate(s), and lease rate(s) for comparable commercial space within the market area in which development is proposed.

Criteria for Market Feasibility: A current Market Study (no more than 6 months old), or an update dated no more than six months from the date of the original Market Study, researched and prepared by an independent professional firm which recommends and justifies the overall market area demand for new housing units by addressing all aspects of marketability including but not limited to:

- Market composition between homeowners and renters;
- Geographic definition and analysis of market area;
- Existing competing developments;
- Developments in the market area which are under construction and/or in the pipeline to be developed – with anticipated dates of completion and availability to the public;
- Vacancy rates of both market units and low-income units in the market area;
- Capture rate analysis of target population;
- Absorption (taking into account both existing and proposed for both low-income and market rate developments). The analyst must include a description of the effect of the sponsor's proposed development on the market area;
- Income levels in targeted market area;
- Community profile (addressing employment and population growth projections);
- Site analysis and opinion (including an analysis of how the site will enhance or detract from development marketability). Analyst must visit the proposed site;
- Analysis of local industry(s), i.e., projected growth, stabilization, downsizing, etc.;
- Tax credit rents (as compared to market rents for comparable units);
- Market and low-income housing unit demand currently needed, as well as the anticipated need at the time that the proposed development will be completed;
- A description of development including:
  - Development amenities;
  - Number of units;

- Unit type; and
- Unit size

If HOME funds are requested, additional information is required in the submitted Market Study or MAI Appraisal:

- Identification of the percentage of low-income (80% Area Median Income or lower) population to overall population in the Primary Market Area\*.
- Identification of the number of affordable rental units (restricted to households earning 80% Area Median Income or lower) to total rental units in the Primary Market Area\*.

\*Primary Market Area as defined in submitted appraisal or market study.

If there are no local comparable units, the study should utilize comparables from other nearby communities.

Should the study or update not provide a definitive conclusion regarding new unit market demand, the housing sponsor will fail the market study threshold.

**Note:** The Association is hereby notifying the housing sponsor that the contents of the market study may and can be disclosed to the general public. The party requesting this information may be assessed a nominal fee.

4. Legal description;
5. Location map;
6. Sketch plan of site, typical unit layout, building elevations;
7. Evidence of initial site control (purchase agreement, option);
8. Evidence of approved zoning or, if unavailable, evidence of application for permissive zoning;
9. Résumés for development team members; including addresses, telephone numbers and contact persons;
10. Certifications or other documentation required to substantiate eligibility for Selection Criteria Points. (Required format for the Architect Certification for Green Building points may be found in Exhibit C-2, and required format for the Supportive Services Plan may be found in the Tax Credit/HOME Application Exhibits.);
11. Applicable Association fees;
12. Nonprofit Organizations - Articles of Incorporation and IRS documentation of status;
13. Previous Experience Summaries for the Developer and Management Agent (required formats may be found in Tax Credit/HOME Application Exhibits);
14. Management Agent Questionnaire, Proposed Management Agreement, Comprehensive Management Plan, and Affirmative Fair Housing Marketing Plan. (Required formats for the Affirmative Fair Housing Marketing Plan and the Management Agent Questionnaire may be found in the Tax Credit/HOME Application Exhibits.) If HOME funds are requested, a copy of the published resolution from the local unit of government that establishes that they are affirmatively furthering Fair Housing is also required;

15. If applicable, evidence of Real Estate Tax Waiver or Reduction signed by appropriate official;
16. If applicable, written evidence of available Volume Cap for tax-exempt bond issuance (for tax-exempt bond developments only); and
17. Acquisition Rehabilitation developments must provide the following additional information:
  - a) For developments requesting acquisition credit, a current independent third party MAI appraisal\* that includes both an “as is” restricted market value and an “as is” unrestricted market value (net of appraiser-recommended repairs) of the existing development with land value broken out separately;  
  
\* For clarification purposes, a previously completed appraisal can be used to determine property value, provided: 1) the appraisal report is less than six months old, and 2) the appraisal addresses the development’s ability to sustain occupancy at 93% or greater. An update will be allowed up to six months after the original appraisal date, although in no instance will the Association accept an appraisal beyond 12 months of the original date.
  - b) For developments requesting acquisition credit, documentation that details the dollar amount of any operating and/or replacement reserves that will be transferred with the purchase of the property;
  - c) Complete description of the rehabilitation work proposed for the development and the time frame in which completion of rehabilitation is expected;
  - d) A line item cost estimate detailing acquisition, displacement costs, and proposed rehabilitation. For a building to be considered substantially rehabilitated, rehabilitation expenditures during any 24-month period must equal or exceed an average of \$20,000 in “hard” costs per unit, or must equal a minimum of 20% of the adjusted basis of the building per Section 42 requirements, whichever is greater. Hard rehabilitation costs include site work, rehabilitation costs for physical improvements to the property, and construction contingency. (It should be noted that contractor profit, contractor overhead, general requirements, and soft costs will not be considered in this definition of hard rehabilitation costs.);
  - e) Three years of the most current financial statements for the existing development and a current year-to-date operating statement;
  - f) An architect’s certification indicating that the development will, when rehabilitated, provide decent, safe, and sanitary dwellings which meet Housing Quality Standards (24 CFR 982.401), all applicable local, state, and federal laws including Fair Housing Laws and the American’s With Disabilities Act and local building codes;
  - g) A plan for covering the costs and logistics of displacement for all persons impacted by the rehabilitation; and
  - h) If applicable, a letter of acknowledgement and/or commitment from the provider (HUD, USDA RD, etc.) that the current housing subsidy will continue in force, or be extended for a given period of time. The letter needs to include the following:
    - Maturity date of contract/subsidy;

- Rental assistance dollar amount.
- i) Current (no more than 12 months old) Level I Environmental Report conducted by a professional firm approved by the Association;
- j) If the development was built prior to 1978, a current (no more than 12 month old) Lead-Based Paint Risk Assessment conducted by an Environmental Protection Agency (“EPA”) Certified Risk Assessor;
- k) Current (no more than 12 months old) Physical Needs Assessment conducted by a licensed architect to determine the need for replacement reserves and the remaining useful life of appliances, floor coverings, doors, and all major building components including roof structures, windows, foundations, plumbing, heating, electrical systems, and air conditioning;
- l) CPA opinion letter stating that the ten-year rule requirements have been met or that an IRS waiver is appropriate is required if acquisition tax credits are requested, and the acquired property is not substantially financed, assisted, or operated under Section 8 of the United States Housing Act of 1937, Section 221(d)(3), 221(d)(4), or 236 of the National Housing Act, Section 515 of the Housing Act of 1949, any housing program administered by HUD or the Rural Housing Service of the Department of Agriculture, or any other similar state housing programs.

Applications for noncompetitive additional tax credit do not require Items 2-17, and applications for competitive additional tax credit do not require items 4-17, if originally submitted information is still current, but must provide the following information:

If increased development costs are the result of hard construction cost increases and a contractor contract has already been executed, the Association will require that the following items accompany the application for additional credit:

- Copies of any change orders associated with the increased costs; and
- Comprehensive explanation and justification by the Sponsor for the need to amend the original construction contract.

*For tax-exempt bond developments only, the Conditional Commitment will be conditioned upon the delivery of the following items once construction starts:*

- a) Copy of recorded deed to the development site to be used as evidence that sponsor has purchased the property and ownership is vested in the name of the entity requesting the Allocation;
- b) If an identity of interest exists between the Sponsor and the Seller of the property, a copy of a fair market appraisal by a licensed appraiser conducted within the last 12 months;
- c) Copy of IRS Confirmation of Tax Identification Number for the partnership;
- d) Evidence of permissive zoning;
- e) Copy of executed Architect Contract;
- f) Copy of executed Development Agreement specifying the developer fee and method of payment;

- g) If applicable, copy of executed contract or agreement for consultant services which sets out services provided as well as fee structure;
- h) Copy of executed Construction Contract;
- i) Original Preliminary Architect's Certification that states the development's design meets all Association requirements and all local, state and federal laws including Fair Housing Laws. Said certification shall be in the format attached as Exhibit C-1;
- j) A copy of the firm financing commitment for construction financing.

**B. Request for Tax Credit Carryover Allocation Shall Include:**

- 1. Owner's Certificate and Agreement;
- 2. Updated Tax Credit Application, including Sponsor Certification (Pages 1-21 and Exhibit G of the application);
- 3. Updated documentation substantiating utility allowance calculations.
- 4. Certification of investment in development to-date together with a Certified Public Accountant certification that the 10% test has been met. Said certification shall be in the format attached as Exhibit F;
- 5. Copy of recorded deed to the development site to be used as evidence that sponsor has purchased the property and ownership is vested in the name of the entity requesting the Carryover Allocation;
- 6. If an identity of interest exists between the Sponsor and the Seller of the property, a copy of a fair market appraisal by a licensed appraiser conducted within the last 12 months;
- 7. Copy of IRS Confirmation of Tax Identification Number for the partnership;
- 8. Applicable fees;
- 9. Copy of the Limited Partnership Agreement or LLC Operating Agreement, as amended; and
- 10. Low-Income Housing Tax Credit Regulatory Agreement (re: extended use commitment and, if applicable, regulations covering set-aside units for lowest income tenants); must be signed by sponsor.

The Tax Credit Carryover Allocation will be conditioned upon the delivery of the following items once construction starts:

- a) Evidence of permissive zoning;
- b) Copy of executed Architect Contract;
- c) Copy of executed Development Agreement specifying the developer fee and method of payment;
- d) If applicable, copy of executed contract or agreement for consultant services which sets out services provided as well as fee structure;
- e) Copy of executed Construction Contract;

- f) Original Preliminary Architect's Certification that states the development's design meets all Association requirements and all local, state and federal laws including Fair Housing Laws. Said certification shall be in the format attached as Exhibit C-1;
- g) A copy of the firm financing commitment for construction financing; and

1 year Extension: In the instance a 1 year extension (from the date of allocation) to complete the 10% test has been given (See Section 4.14), items 1, 2, 3, 7, and 8 will be required on or before November 15<sup>th</sup> of the same year the reservation was issued, and items 4, 5, 6 (if applicable), 9, and 10 will be due no later than 1 year after the date of the Carryover Allocation. In completing the Owner's Certificate and Agreement for Carryover Allocation and the accompanying "Exhibit B", the Owner must estimate accumulated basis to date. Also be advised that the Owner must maintain site control in their name (as evidenced by a land purchase agreement) for a period of time not less than the expiration of the extension. .

C. Application for Tax Credit Certification (Placed-in-Service Developments) Shall Include:

1. Updated tax credit application, including Sponsor Certification (page 1-21 and Exhibit G of the application);
2. Updated documentation substantiating utility allowance calculations;
3. Certificate(s) of Occupancy;
4. Applicable fees;
5. Original recorded Low-Income Housing Tax Credit Regulatory Agreement;
6. Final permanent loan closing documents, in particular a copy of the Note, recorded Deed of Trust, and Owner's Title Policy;
7. Original Cost Certification by Certified Public Accountant in accordance with the Allocation Plan (See Exhibit G for format);
8. Original "As Built" Certification from Architect that the development is built in accordance with all applicable local, state and federal laws, including, but not limited to the Fair Housing laws as they pertain to handicapped accessibility and adaptability and those requirements of the Association set forth in this Allocation Plan (See Exhibit D-1 for format.);
9. If applicable, original "As-Built" Certification for Green Building from a licensed Architect. (See Exhibit D-2 for required format.)
10. Copy of Placement Memorandum or Syndication Agreement indicating tax credit proceeds available to the development together with a contribution schedule;
11. Copy of all organizational documents, including the Limited Partnership Agreement, as amended, or LLC Operating Agreement;
12. Statement from syndicator which sets forth all fees paid to the syndicator in connection with the syndication;
13. Current Rent Roll; and
14. If applicable, evidence of receipt of grant funds.

**EXHIBIT C-1: PRELIMINARY ARCHITECT CERTIFICATION**

I have examined the drawings and specifications dated prepared by \_\_\_\_\_ (architect) and related to the development known as \_\_\_\_\_ (development name) located in \_\_\_\_\_ (city, state).

Based upon this examination, to the best of my knowledge and belief, these documents conform to applicable local, state and federal laws designated as the development standard for the development, as well as applicable local health, safety and building codes and those additional requirements as adopted by Idaho Housing and Finance Association (“IHFA”) and set forth below:

*NOTE: The intent is that all code and standards cited are the most current versions.*

- Minimum Property Standards for Housing (HUD Handbook 4910.1)
- American National Standard Institute ICC A117.1
- International Energy Conservation Code
- International Building Code
- International Mechanical Code
- International Plumbing Code
- National Electrical Code
- Fair Housing Accessibility Guidelines
- Section 504 of the Rehabilitation Act
- Americans with Disabilities Act (ADA)
- Uniform Federal Accessibility Standards (UFAS)
- IHFA Green Building Requirements:
  1. Use of Low or no VOC paints, primers, adhesives, and sealants
  2. Energy Star rated refrigerators and dishwashers (100% with new construction, replacements with rehabilitation)
  3. 50% or more of the total lighting to be high efficiency bulbs/lamps (CFL, LED)
  4. Programmable thermostats in all units

\_\_\_\_\_  
Date (Idaho Stamp)

\_\_\_\_\_  
Architect

Based on the foregoing representations by the Architect, the owner certifies that the development will be constructed in accordance with the requirements set forth above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sponsor

**EXHIBIT C-2: PRELIMINARY ARCHITECT CERTIFICATION FOR GREEN BUILDING**

As a licensed architect, I hereby certify, to the best of my knowledge and belief, that the selected "green building" certifiable standards or items below will be incorporated into the design of \_\_\_\_\_, located in \_\_\_\_\_.

*NOTE: The intent is that all code and standards cited are the most current versions.*

- LEED (Certified or higher level)
- Energy Star NWICC 700
- National Green Building Standard
- Enterprise Green Communities
- IHFA Green Building Criteria (see below)

IHFA Green Building Criteria

- Developments where 50% or more of their total lighting fixtures are Energy Star rated
- HVAC equipment that meets Energy Star for Homes requirements
- Water saving shower heads, toilets, faucets
  - Bathroom faucets:  $\leq 1.0$  gpm
  - Kitchen faucets:  $\leq 1.5$  gpm
  - Toilets:  $\leq 1.3$  gpf or dual-flush toilets
  - Shower heads:  $\leq 1.75$  gpm
- Green label certified carpet
- Harvesting 15% of rainwater runoff from roof for landscape irrigation use
- High Efficiency HVAC filters
- Electric or Gas tankless water heaters
- Xeriscape landscaping and high efficiency irrigation
- U-0.30 or lower rated windows (total assembly)
- Wall and ceiling insulation that provides a 20% increase over minimum code (based on ResCheck or HERS rating at placed-in-service/cost certification date)
- Metal or long lasting roofing (30 year warranty – minimum) or Energy Star roofing
- Enhanced mechanical ventilation (Heat Recovery or Continuous Ventilations)

Date: \_\_\_\_\_ )

(Idaho Stamp)

\_\_\_\_\_  
Architect

Based on the foregoing representations by the Architect, the Sponsor certifies that the development will be constructed in accordance with the requirements set forth above.

Date: \_\_\_\_\_

\_\_\_\_\_  
Sponsor

**EXHIBIT D-1: "AS-BUILT" ARCHITECT CERTIFICATION**

I have inspected the development known as \_\_\_\_\_ (development name) located in \_\_\_\_\_ (city, state) and hereby certify, to the best of my knowledge and belief, that the development has been built in accordance with the drawings and specifications dated \_\_\_\_\_ and prepared by \_\_\_\_\_.

Based upon this inspection, to the best of my knowledge and belief, the development has been constructed in conformance with applicable local, state and federal laws designated as the development standard for the development, as well as applicable local health, safety and building codes and those additional requirements as adopted by Idaho Housing and Finance Association ("IHFA") and set forth below:

*NOTE: The intent is that all code and standards cited are the most current versions.*

- Minimum Property Standards for Housing (HUD Handbook 4910.1)
- American National Standard Institute ICC A117.1
- International Energy Conservation Code
- International Building Code
- International Mechanical Code
- International Plumbing Code
- National Electrical Code
- Fair Housing Accessibility Guidelines
- Section 504 of the Rehabilitation Act
- Americans with Disabilities Act (ADA)
- Uniform Federal Accessibility Standards (UFAS)
- IHFA Green Building Requirements:
  1. Use of Low or no VOC paints, primers, adhesives, and sealants
  2. Energy Star rated refrigerators and dishwashers (100% with new construction, replacements with rehabilitation)
  3. 50% or more of the total lighting to be high efficiency bulbs/lamps (CFL, LED)
  4. Programmable thermostats in all units

\_\_\_\_\_  
Date

(Idaho Stamp)

\_\_\_\_\_  
Architect

Based on the foregoing representations by the Architect, the Sponsor certifies that the development has been constructed in accordance with the requirements set forth above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sponsor



## **EXHIBIT E: CONSTRUCTION SPECIFICATION INSTITUTE'S UNIFORM SYSTEM**

- Division 1 - General Requirements
- Division 2 - Site Work
- Division 3 - Concrete
- Division 4 - Masonry
- Division 5 - Metals
- Division 6 - Carpentry
- Division 7 - Thermal and Moisture Protection
- Division 8 - Doors and Windows
- Division 9 - Finishes
- Division 10 - Specialties
- Division 11 - Equipment
- Division 12 - Furnishings
- Division 13 - Special Construction
- Division 14 - Conveying Systems
- Division 15 - Mechanical
- Division 16 - Electrical
- Contractor's Overhead and Profit

**EXHIBIT F: TEN PERCENT LETTER FOR CARRYOVER ALLOCATION**

Independent Auditor's Report

Date:

To: Idaho Housing and Finance Association  
565 West Myrtle  
P.O. Box 7899  
Boise, ID 83707-1899

And

\_\_\_\_\_ (the "Owner")  
\_\_\_\_\_ Address  
\_\_\_\_\_ City, State Zip

Re: \_\_\_\_\_  
(Development name, development number)

We have examined the accompanying Certification of Costs Incurred ("Exhibit A") of the Owner for \_\_\_\_\_ (the "Development") as of \_\_\_\_\_, 20\_\_\_. Exhibit A is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on Exhibit A based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting Exhibit A and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

The accompanying Exhibit A was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by Idaho Housing and Finance Association ("IHFA"), which is a comprehensive basis of accounting other than generally accepted accounting principles.

The 10% Test includes an estimate prepared by the Owner of total development costs and reasonably expected basis, as defined in Treasury Section 1.42-6. We have not examined or performed any procedures in connection with such estimated total development costs and reasonably expected basis and, accordingly, we do not express any opinion or any other form of assurance on such estimates. Furthermore, even if the Development is developed and completed there will usually be differences between the projected and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.

In our opinion, Exhibit A referred to above presents fairly, in all material respects, costs incurred for the Development as of \_\_\_\_\_, 20\_\_, on the basis of accounting described above.

In addition to auditing Exhibit A, we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Development. These procedures, which were agreed to by the Owner and IHFA, were performed to assist you in determining whether the Development has met the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6. These agreed-upon procedures were performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these

procedures is solely the responsibility of the specified users of the report. Consequently, we make no representations regarding the sufficiency of the procedures below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

- We calculated, based on estimates of total development costs provided by the Owner, the Development's total reasonably expected basis, as defined in Treasury Regulation Section 1.42-6, to be \$\_\_\_\_\_ as of \_\_\_\_\_, 20\_\_.
- We calculated the reasonably expected basis incurred by the Owner as of \_\_\_\_\_, 20\_\_ to be \$\_\_\_\_\_.
- We calculated the percentage of the development fee incurred by the Owner as of \_\_\_\_\_ to be \_\_\_% of the total development fee.
- We compared the reasonably expected basis incurred by Owner as of \_\_\_\_\_, 20\_\_ to the total reasonably expected basis of the Development as of the end of the second year following the year in which this carryover allocation is received, and calculated the \_\_\_% had been incurred as of \_\_\_\_\_, 20\_\_.
- We determined that the Owner uses the accrual method of accounting, and has not included any construction costs in said basis that have not been properly accrued.
- Based on the amount of total reasonably expected basis listed above, for the Owner to meet the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, we calculated that the Development needed to incur at least \$\_\_\_\_\_ of costs prior to December 31, 20\_\_. As of \_\_\_\_\_, 20\_\_, costs of at least \$\_\_\_\_\_ had been incurred, which is approximately \_\_.% of the total reasonably expected basis of the Development.

We were not engaged to, and did not, perform an audit of the Owner's financial statements or of the Development's total reasonably expected basis. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Owner and the Owner's management and for filing with IHFA and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

City, State

Date

**EXHIBIT A (of EXHIBIT F)**  
**CERTIFICATION OF COSTS INCURRED**

		<u>% of Total</u>
Anticipated Total Basis as of December 31, _____:		
1. Land Acquisition and Related Costs	\$ _____	_____
2. Acquisition of Buildings	\$ _____	_____
3. Site Work	\$ _____	_____
4. Rehabilitation	\$ _____	_____
5. New Construction	\$ _____	_____
6. Architectural/Engineering Fees	\$ _____	_____
7. Interim Costs	\$ _____	_____
8. Financing Fees & Expense	\$ _____	_____
9. Soft Costs	\$ _____	_____
10. Developer Fee	\$ _____	_____
11. Contingency	\$ _____	_____
12. Other Costs: _____	\$ _____	_____
<b>TOTAL</b>	<b>\$ _____</b>	<b><u>100%</u></b>

**Accumulated Basis to Date:**

1. _____	\$ _____	
2. _____	\$ _____	
3. _____	\$ _____	
4. _____	\$ _____	
5. _____	\$ _____	
6. _____	\$ _____	
7. _____	\$ _____	
8. _____	\$ _____	
9. _____	\$ _____	
10. _____	\$ _____	
<b>TOTAL</b>	<b>\$ _____</b>	<b><u>%*</u></b>
		% of Total Anticipated Basis

\* Percent Accumulated Basis to Date Against Total Anticipated Basis Must Exceed 10%

**The Owner hereby accepts full responsibility for the accuracy of the foregoing information and acknowledges that Idaho Housing and Finance Association has no responsibility in the verification or the eligibility of the basis calculation.**

Dated: \_\_\_\_\_ (Owner's Name)

By: \_\_\_\_\_  
 Title: \_\_\_\_\_

This form must be accompanied by a certification by a Certified Public Accountant stating that the development meets the 10% test as required to meet Carryover Eligibility. The Idaho Housing and Finance Association reserves the right to review such certifications for reasonableness and may refuse to accept certifications based upon that review.

**EXHIBIT G: FINAL COST CERTIFICATION LETTER**

Independent Auditor' Report

Owner's Name:

Development Name:

Development Number:

We have examined the costs included in the accompanying Idaho Housing and Finance Association ("IHFA") Final Cost Certification (the "Final Cost Certification") of \_\_\_\_\_ (the "Owner") for \_\_\_\_\_(the "Development") as of \_\_\_\_\_, 20\_\_\_. The Final Cost Certification is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on the Final Cost Certification based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the Final Cost Certification and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion.

The accompanying Final Cost Certification was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service, under the accrual method of accounting, and in conformity with the format and qualified allocation plan rules set by IHFA, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the Final Cost Certification presents fairly, in all material respects, the actual costs of \$\_\_\_\_\_ and eligible basis of \$\_\_\_\_\_ of the Owner for the Development as of \_\_\_\_\_, 20\_\_\_\_, on the basis of accounting described above.

This report is intended solely for the information and use of the Owner and the Owner's management and for filing with IHFA, and should not be used for any other purposes.

We have no financial interest in the Development other than in the practice of our profession.

City, State

Date

**EXHIBIT G  
FINAL COST CERTIFICATION**

Include all costs incurred in project development exclusive of syndication fees and syndication related costs. Indicate the amount of basis recognized for tax credit purposes in the appropriate column. Refer to Section 9 of the Allocation Plan for requirements.

ITEMIZED COSTS (Identify "Other" items)	Actual Cost		TOTAL COST	30% PV ELIGIBLE BASIS	70% PV ELIGIBLE BASIS
	PAID	TO BE PAID			

**To Purchase Land and Buildings:**

Land					
Existing Structures					
Demolition					
Legal Costs					
Title & Closing Costs					
Interest Attributed to Land					
<b>Subtotal</b>					

**For Site Work:**

Site Work					
Off Site Improvement					
Other					
<b>Subtotal</b>					

**For Rehab. and New Construction**

New Building					
Rehabilitation					
Accessory Building					
Buildings or facilities with tenant charges					
General Requirements *					
Contractor Overhead *					
Contractor Profit *					
Surety Bond Premium					
Other					
Other					
Other					
Other					
<b>Subtotal</b>					

\* General Requirements, Overhead and Profit limited to a total 14% of Construction Contract.

**For Architectural and Engineering**

**Fees:**

Architect Fee – Design					
Architect Fee – Supervision					
Engineering Fees/Survey					
<b>Subtotal</b>					
<b>Subtotal Page 1</b>					

**EXHIBIT G - CONTINUED**

ITEMIZED COSTS (Identify "Other" items)	Actual Cost		TOTAL COST	30% PV ELIGIBLE BASIS	70% PV ELIGIBLE BASIS
	PAID	TO BE PAID			
<b>SUBTOTAL FROM PAGE 1</b>					
<b>For Permits:</b>					
City Permits					
Permits					
Plan Checks					
<b>Subtotal</b>					
<b>For Interim Costs:</b>					
Construction Insurance					
Construction Interest (only during Const. Term)					
Construction Loan Origination Fee					
Title Insurance/ Escrow/ Recording/Closing					
Construction Taxes					
Legal Costs					
<b>Subtotal</b>					
<b>For Permanent Financing Fees and Expenses:</b>					
Credit Report					
Permanent Loan Origination Fee					
Title and Recording/Closing					
Legal Costs					
Other					
<b>Subtotal</b>					
<b>For Soft Costs:</b>					
Property Appraisal					
Market Study					
Environmental Report					
Soil Tests					
Tax Credit Fees					
Rent Up Expense					
Organizational Costs (Excluding Synidcation)					
<b>Subtotal</b>					
<b>For Developer's Fees: (Not to Exceed 14% of total cost, excluding reserves, developer and consultant fees)</b>					
Developer Fee – (includes profit and overhead)					
Consultant's Fee					
<b>Subtotal</b>					
<b>Subtotal Page 2</b>					

**EXHIBIT G - CONTINUED**

ITEMIZED COSTS (Identify "Other" items)	Actual Cost		TOTAL COST	30% PV ELIGIBLE BASIS	70% PV ELIGIBLE BASIS
	PAID	TO BE PAID			
<b>SUBTOTAL FROM PAGE 2</b>					
<b>For Project Reserves:</b>					
Rent-Up Reserve					
Operating Reserve					
Other					
Other					
<b>Subtotal</b>					
<b>Subtotal Page 3</b>					
<b>Grand Total All Pages</b>					

Cost Certifications:

This form must be accompanied by a certification from the Certified Public Accountant that identifies the method of certification and lists any identities of interest.

CERTIFICATION OF FUNDING SOURCES		
Include all individual funding sources in the project development including any developer equity and/or deferred development fees.		
SOURCE	AMOUNT	TERMS
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
<b>TOTAL</b>		(Must equal total development costs)

Developer equity and/or deferred development fees must be certified as received or payable as applicable.

**EXHIBIT H: IHFA FEES (For Tax Credit Developments Only)**

<u>FEE</u>	<u>AMOUNT</u>	<u>WHEN PAYABLE</u>
1. Application fee for State Ceiling Credit	\$3,000	Upon submission of application
2. Application fee for Tax-Exempt Bond Financed Developments	\$3,000	Upon submission of application
3. RESERVATION FEE	The greater of: 3% of annual Tax Credit or \$600	Upon acceptance of Reservation
4. ADMINISTRATIVE FEE	\$1,000	Due upon acceptance of Reservation.
5. CONDITIONAL COMMITMENT FEE <i>(Tax Exempt Bond Developments)</i>	The greater of: 3% of Annual Tax Credit or \$600	Upon acceptance of Conditional Commitment
6. ALLOCATION FEES:		
A. Carryover Allocation Fee or Placed in Service Fee	The greater of: 3% of Annual Tax Credit or \$1,200	Upon submission of Owner's Certificate and Agreement re: Carryover Allocation or application for IRS Form 8609s, whichever occurs first
B. Tax Exempt Bonds Allocation Fee	The greater of: 3% of annual Tax Credit or \$1,200	Upon application for IRS Form 8609s
7. RETURN CREDIT FEE	The greater of: 3% of annual Tax Credit or \$1,200	In the event that the Tax Credit Reservation or Conditional Commitment is returned for any reason before Allocation occurs.
8. Carryover Application penalty fee	\$2,500	Developments failing to apply for Carryover Allocation within 10 business days of the time requirements set forth in the Allocation Plan
9. Placed-in-Service penalty fee	\$5,000 and prohibition from participation in subsequent application round.	Developments failing to apply for Allocation Certification within time requirements set forth in the Allocation Plan
10. Request for feasibility study copy from an outside party.	\$25	Upon request

**Program participants will be responsible for costs incurred by IHFA in conducting compliance audits during the development's compliance period, as outlined in the Compliance Manual.**

**ALL IHFA FEES ARE NON-REFUNDABLE, ALTHOUGH IN THE INSTANCE WHERE THE RETURN OF TAX CREDIT IS DUE TO UNFORSEEN CIRCUMSTANCES BEYOND A SPONSOR'S CONTROL, IHFA RETAINS THE RIGHT TO WAIVE THE FEE.**