

**Draft March 8, 2018**

**PENNSYLVANIA HOUSING FINANCE AGENCY  
ALLOCATION PLAN FOR YEAR 2019  
LOW INCOME HOUSING TAX CREDIT PROGRAM**

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**PROCESSING OVERVIEW AND PROCEDURES FOR 20192019**

The Pennsylvania Housing Finance Agency (the "Agency") administers the Federal Low Income Housing Tax Credit Program ("Tax Credit Program") in the Commonwealth of Pennsylvania. Pursuant to federal law governing the Tax Credit Program, the Agency adopts a plan (the "Allocation Plan") outlining the allocation priorities and procedures to be followed in distributing Federal Low Income Housing Tax Credits ("Tax Credits") based on the housing needs of the Commonwealth. Adoption of the Allocation Plan requires approval by the Governor after a public hearing.

The Agency intends to review the Applications for Tax Credits ("Applications") it receives and to select among the Applicants based on the selection ranking criteria, with **priority given to projects which fill an object need or which best demonstrate an ability to move forward**. The Selection Criteria has been amended to reflect specific needs and market conditions which may differ based on type of property, targeted populations and housing needs.

**The Agency may issue supplemental policy and guideline announcements** affecting this Allocation Plan. Furthermore, the Agency reserves the right to suspend or otherwise alter the submission requirements and timelines in its discretion. Please refer to the Agency's website at [www.phfa.org](http://www.phfa.org).

**SUBMISSION REQUIREMENTS**

All information submitted by the Applicant or requested by the Agency in the review of the Application is the sole property of the Agency and may be made public. The Agency's processing procedures, fee schedules and limitations, and current rent and income limits are set forth in the Agency's 2019 Multifamily Housing Application Package and 2019 Multifamily Housing Program Guidelines (the "2019 Guidelines"), which will be available on the Agency's website at [www.phfa.org](http://www.phfa.org), and may be amended from time to time. It is the Applicant's responsibility to be familiar and compliant with all Tax Credit Program requirements, the regulations, and the Internal Revenue Code (the "Code"), in effect both now and in the future, as applicable to any Application in this Program.

For a development to be considered for a reservation of Tax Credits, the entire Application package, including all exhibits, must be received by the Agency no later than **3:00 p.m. on September 28, 2018 (or such other deadline as may be established by the Agency on its website)**. Applications (which includes receipt of an electronic submission and hard copy) not received by the closing date of the submission cycle will not be considered **In advance of submitting the entire Application package on September 28, 2018, Applicants must submit an Intent to Submit a Tax Credit Application - Fact Sheet (see 2019 Guidelines for form) and Development Synopsis on or before July 13, 2018**. This submission is a mandatory requirement for the 2019 Tax Credit Program. The Agency will evaluate the Applications based upon the requirements set forth herein and may request additional information from Applicants at any time during the processing of an Application in its discretion.

The entity(ies) identified as an Applicant(s) in the Application must have a general partner interest in the final ownership entity of the development. The Applicant(s) must be actively involved in both the development and ongoing control and management of the development as evidenced in the partnership agreement governing the ownership entity for the development Applications. Sale, transfer or assignment of an Applicant's interest

in the proposed Tax Credit development is prohibited while the Application is pending. **The Agency may impose a limit of no more than four (4) applications per year per entity serving as a general partner, either solely or as a co-general partner. Additionally, the Agency may impose a limit of no more than eight (8) applications per year for consultants (either on behalf of a developer or in their capacity as a general partner).** Depending on application volume, the Agency may limit the number or size of awards per developer. Additionally, the Agency will not accept a proposal from an Applicant currently holding a reservation of Tax Credits that has not closed on all construction and equity financing on or September 28, 2018. After reservation of Tax Credits, any such transfers, sales and assignments prior to placement in service and issuance of an IRS Form 8609 require prior written approval by Agency staff and may require submission of a new Application, additional processing fees and/or may result in recapture of Tax Credits by the Agency.

The Application package submitted for review must include all of the information in the order set forth in the Application Checklist. **Any material deficiency in the Application or omission from the mandatory submissions set forth in the Application Checklist may result in immediate rejection or alternatively, negative ranking points.** In addition, the Application must meet program eligibility requirements set forth in the Code. Applications and required exhibits may not be submitted via fax or email to the Agency. Any Application which does not contain sufficient information to be reviewed will be returned. The Agency reserves the right to reject or return any Application at any time during the Application processing period.

**Any Application, once received by the Agency, may not be altered, amended or modified except as approved by staff during underwriting and program review or except for developments participating in an Agency financing program, which may undergo subsequent substitute processing and ranking by the Agency.** Applications will be ranked based only upon the information contained in the Application package. Agency staff will review the development's construction costs, fees, sources of funds, operating income and expenses to determine the development's financial feasibility and long term viability. The Agency may review local and/or state analysis of impediments to fair housing prepared in connection with federal funding programs and **may prioritize Applications which evidence opportunities to affirmatively further fair housing.** Applications that meet all threshold requirements, need and marketability and are financially feasible and viable will then be ranked according to the Selection Criteria. Applications that do not meet threshold requirements, are financially infeasible, do not demonstrate long term viability, or which exceed the maximum number of Applications per Applicant may be returned at any time. The Agency also reserves the right, in its sole discretion, to reject any Application in the event that the costs or fees associated with the proposed development are deemed to be excessive or unreasonable. Additionally, the Agency may discontinue processing any Application if the Agency determines in its sole discretion that the development will not be able to receive a reservation of Tax Credits due to the oversubscription of Tax Credits in any Set-Aside, Pool or Preference.

Upon review of the Application, Agency staff may, but is under no obligation to, advise the Applicant of incongruities, discrepancies or incomplete items and may allow the Applicant to clarify or supplement the original submission. Such requests will be made in writing to the Applicant and response will be required within the timeframe set forth therein, which will generally be no later than five business days from notification by staff. Applicants are urged to review their original Applications carefully prior to submission to the Agency. Corrections allowed during the staff review process will neither include replacement, substitution or amendment of material items used by staff in the ranking of an Application nor remedy the scoring of an Application as an incomplete submission. See the 2019 Guidelines for additional guidance and information about processing Applications.

Notwithstanding the above, Agency staff may take any actions deemed necessary by the Agency to process Applications and administer this program, which may include modifying and adjusting any allocation as it deems necessary to promote housing goals including its goal of creating and enhancing housing choices in areas of opportunity (maximizing leveraging of available program resources, and encouraging geographic distribution), and to respond to specific market needs and/or program objectives.

Furthermore, Agency staff is specifically instructed and authorized to make *de minimis* adjustment to any

Application in processing, at any time as deemed appropriate and necessary, to carry out the housing goals of the Agency. (For these purposes, *de minimis* means an adjustment of approximately 5% of the conditional reservation or allocation.)

### **APPLICATION ELIGIBILITY CRITERIA**

In order to be considered for a conditional reservation of Tax Credits, all Applicants must submit an Application. The Agency will not accept or process requests for Tax Credits without the submission of an Application, and will only process Applications meeting all of the following eligibility criteria. Failure to meet any of these eligibility criteria may result in rejection of the Application.

1. Agency staff will review the Tax Credit Program compliance history and performance of the Applicant (or any related entity or material participant) and the management agent of the proposed development. The Applicant must certify that it is in compliance with all Tax Credit Program requirements for each Tax Credit development in which it has a material ownership interest. If the Applicant (or any related entity) or management agent of the proposed development is currently involved in a Tax Credit development that has been reported to the Internal Revenue Service ("IRS") as being out of compliance with any Agency program requirement (or has an outstanding Restrictive Covenant Agreement violation) and such noncompliance has not been brought back into compliance prior to the submission of the Application, the Application may be rejected at any time prior to reservation of Tax Credits. In the alternative (or in addition, as determined by the Agency), attendance and satisfactory completion of an Agency-approved course in the compliance requirements of the Tax Credit Program may be required. The Agency will determine whether a compliance issue is of a material or nonmaterial nature and whether it is of a recurring nature based on the facts and circumstances. Note that while any material compliance issue may result in rejection of an Application, nonmaterial noncompliance issues may result in the adjustment of points during the ranking process. The Agency may reject any Application from an Applicant who fails to submit and maintain timely unit and project information on the Agency's interactive database ("PA Housing Search"), participate in the Agency's energy benchmarking program or provide supplemental data upon request.
2. If the Applicant (or any related entity or material participant) is involved or has been involved in an Agency funded development (including Tax Credit properties) that is: delinquent in payments to the Agency, has materially defaulted on any of its obligations including, meeting required submissions and deadlines, or has misrepresented any material information on a previous applications, the Agency may reject the Application. Upon receipt of an Intent to Submit (or at any point during the pendency of an application), the Agency will notify Applicants of any delinquency default or noncompliance. Failure to cure delinquencies, defaults or similar actions within thirty (30) days of such notice will result in the rejection of future Applications.
3. Applications may be returned if the Applicant (or any related entity or material participant) has failed to meet any established program deadline date which resulted in loss or recapture of Tax Credits or potential loss of other financial assistance or funding resources.
4. Applicants (or any related entities or material participants) who have unpaid fees due to the Agency or with outstanding state tax liability may be ineligible to participate in the Tax Credit Program.
5. Developments that have resulted from or will result in the permanent displacement of low income residents will be ineligible for Tax Credit Program participation unless the Applicant provides evidence satisfactory to the Agency that an appropriate relocation plan has been developed. Furthermore, to the greatest extent feasible, all existing low income residents must be offered their choice to either be temporarily relocated until such time, upon completion of the development, as they are able to return to an appropriately sized affordable unit in the development, or receive relocation benefits. Applicants are required to document the efficacy of notice given to residents to the satisfaction of the Agency.

6. Applications for Acquisition Tax Credits will not be accepted for any existing occupied Tax Credit development during its initial compliance period unless the initial compliance period will have expired prior to the end of 2019 and the property meets all other Acquisition Tax Credit rules.
7. Applicant must provide evidence satisfactory to the Agency of its financial and organizational capacity to ensure the completion of the development in accordance with the requirements of the Code. The Agency will consider the total cost and number of projects owned or managed by the Applicant in making this determination. Additionally, the Agency reserves the right to review supporting documentation, including annual audited financial statements, to evaluate the Applicant's financial capacity.
8. Applications for 2019 Tax Credits must demonstrate a commitment to serve low income residents for a period of not less than 35 years or, in the alternative, offer homeownership opportunities to qualified residents after the initial 15 year compliance period. For the commitment to serve low income residents for a period of not less than 35 years, Applicant will certify this commitment in the Application and the Restrictive Covenant Agreement will contain a provision waiving any right to petition the Agency to terminate the extended use term (as described in the Code). If the alternative of homeownership opportunities is selected, proposals must present a financially viable homeownership program for residents who inhabit the units during the compliance period. The program must incorporate an exit strategy, homeownership counseling and a minimum amount of funds (not less than \$1,000 per unit) set aside by the developer to assist the residents with the purchase. This amount may not be included in the project budget. The only types of units eligible for consideration are townhouse and single family attached and detached structures. The Agency may approve other unit types conducive for these purposes if structured as cooperative or condominium ownership. The Applicant will certify this commitment in the Application and the Restrictive Covenant Agreement will contain provisions ensuring enforcement of the related covenants by affected qualified residents. Should the units not be converted to homeownership, the Restrictive Covenant Agreement will contain a provision waiving any right to petition the Agency to terminate the extended use term for all units remaining as rental units. A certification from the design architect verifying the units are townhouse or single family attached or detached structures (or otherwise appropriate for homeownership by tenants as determined by the Agency) will be required as part of the Application.
9. The development team must have sufficient experience, as determined in the sole discretion of the Agency, to effectively own, design, construct, manage and operate a Tax Credit development. The development team members include the Applicant, architect, general contractor, attorney, and the management agent. As appropriate, the experience of a housing consultant (including their ability to secure equity investment and provide services through initial occupancy) or a housing management consultant may be considered in lieu of the Applicant or management agent, respectively.

**In addition to the above threshold eligibility criteria, the Agency reserves the right to take any action it deems appropriate if the Applicant (or any related entity), proposed management agent, or other material participant has been found to be in violation of fair housing, housing accessibility or nondiscrimination laws or has been found to discriminate against Section 8 voucher and certificate holders or recipients of any state or local tenant or project based rental assistance, and such violation or discriminatory actions have not been remedied to the satisfaction of the governmental agency or entity with jurisdiction.** The Agency specifically reserves the right to take any appropriate action and to deny any future Tax Credit Application from any Applicant (or related entity) who evicts or terminates the tenancy of low income residents, except for good cause, throughout the entire project compliance period (including the extended use period) applicable to any existing Tax Credit development. The Agency may reject an Application from any Applicant (or related entity) who participates in a transaction or program to achieve early termination of a Restrictive Covenant Agreement (or other document(s) evidencing long term restrictions applicable to the Tax Credit Program) as determined by the Agency in its sole discretion. Such action may include rejection of the Application, termination of processing, recapture of Tax Credits (if an IRS Form 8609 has not been issued) or, if applicable, issuance of an IRS Form 8823 or notification to the appropriate governmental authorities. As evidence of such finding of violation, the Agency may rely upon

its own investigations or may rely upon any order of a court with jurisdiction or upon notice of such a finding from any federal or state agency with investigative or regulatory jurisdiction regarding the subject matter, such as the Internal Revenue Service, U.S. Department of Justice, U.S. Department of Treasury, U.S. Department of Housing and Urban Development, Pennsylvania Human Relations Commission or Pennsylvania Office of Attorney General or may make a determination based upon the failure to report or affirmatively disclose information to the Agency.

“Material participant” for purpose of this section includes any entity who by written agreement may significantly affect, in the opinion of the Agency, the development or operation of the property. Such written agreement may include ground leases, operating subsidies, partnership agreements, management contracts or operating regulatory agreements.

10. Applications must demonstrate that the housing needs of local public housing waiting lists have been met. Applicants may meet this requirement by providing either: (1) a current letter from the local public housing authority stating how the development is specifically meeting the housing needs of residents on the public housing waiting list; (2) a copy of the comprehensive plan outlining the current local public housing authority waiting list and evidence that the development will meet such resident needs; or (3) evidence of receipt of mailing to the local public housing authority prior to the date of the Tax Credit Application a letter which evidences the commitment of the developer to work cooperatively to meet the needs of persons on the local public housing waiting list.
11. Applications must include evidence, satisfactory to the Agency, that an equity investor has been secured for the development at a market pay-in value and the terms and conditions related to the investment are reasonable.

**SET-ASIDES, POOLS AND PREFERENCES**

The Agency will provide Tax Credits through several Set-Asides, Pools and Preferences. Should additional Tax Credits become available for whatever reason at any time in 2019, the Agency will not issue an amendment to this Allocation Plan but will instead make allocations of such additional Tax Credits based upon priorities and preferences set forth in this Allocation Plan as it deems appropriate and as further set forth herein. The amounts available in each Set-Aside may be adjusted by the Agency to ensure adequate and appropriate funding of the Applicants meeting the Program criteria.

**Set-Aside Percentages**

<u>Set-Asides</u>	<u>Percentage of Tax Credits to be Allocated</u>
Geographic Set-Aside	
Urban Pool*	50.00%
Suburban/Rural Pool	50.00%
Total	100.00%

\* See “Exhibit Urban Areas” for complete list of the applicable municipalities. Fifty percent (50%) of this amount will initially be set aside to fund developments located in municipalities other than Philadelphia.

The Agency has established preferences for certain types of developments in each Pool which include general occupancy, senior occupancy (ages 62 and over), properties furthering the preservation of affordable housing, applications for supportive housing, community revitalization developments, areas of opportunity and Strategic Investment developments (as more fully described herein). **The Agency may also provide a preference to developments using Commonwealth-sponsored pilot programs, developments providing**

**employment opportunities for property or community residents, developments or Applicants evidencing meaningful participation in Section 811 program or meeting specific market needs or Agency housing goals.**

Preferences for certain types of housing have been established as minimum goals by the Agency in meeting certain housing needs of the Commonwealth. Applicants may be considered in more than one category and will have been deemed to have met both for purposes of meeting the stated housing goals. Due to the limited amount of 2019 Tax Credits which may be available, these minimum goals may be adjusted or modified accordingly. Applicants meeting more than one of these categories may be advantaged during the ranking/scoring process.

1. General Occupancy - The Agency will reserve Tax Credits to, at a minimum, three (3) general occupancy properties in each Pool.
2. Senior Occupancy 62+ with Services - The Agency will reserve Tax Credits to, at a minimum, two (2) senior occupancy developments targeting persons 62 years of age and above in each Pool. Eligibility for this preference will require demonstration that services will be provided to residents to enable them to continue to live independently.
3. Preservation Developments – The Agency will reserve Tax Credits to, at a minimum, **four (4) preservation properties in the aggregate between the two Pools**. To be considered eligible for this preference, existing affordable properties should demonstrate that Tax Credits are necessary to extend the long term affordability and habitability of the development or that there is a likelihood of conversion to market rate housing (which must be supported by a current market study in a form and substance acceptable to the Agency). The Agency will conduct a comprehensive site visit on all preservation properties and will review the capital needs assessment, occupancy and financial reports and supplemental information to identify those properties which demonstrate the greatest need of preservation.
4. Supportive Housing – The Agency will reserve Tax Credits to, at a minimum, two (2) developments in each Pool which promote supportive housing opportunities to targeted populations including persons who are homeless; non-homeless households requiring supportive services including those with mental, physical, sensory, or developmental disabilities; persons with substance abuse disorders; persons diagnosed with HIV/AIDs and related diseases; and other special populations approved by the Agency on a case-by-case basis (which may include consideration for the specialized needs associated with affordable housing for veteran households). Designated units must be rented only to the target population (subject to fair housing laws). The Agency may determine to fund only one Supportive Housing development from this preference each pool if the Application has a very high score and the amount of tax credits requested exceeds \$1,200,000. Eligible Applicants may include those eligible and willing to participate in the HUD Section 811 Demonstration Program.
5. Innovation in Design - The Agency will hold a juried competition encouraging demonstrated innovation in housing which may be illustrated through excellence in design, implementation of current and future energy efficient technologies and materials and leveraging community and capital resources and will reserve Tax Credits to the winning development(s). See Checklist in 2019 Guidelines for materials needed to participate in the competition. The selected Applicant will work with the Agency to establish, document and employ the best practices for future housing policies and standards.
6. Strategic Investment – The Agency will reserve Tax Credits to, at a minimum, three (3) Applicants in each Pool which the Agency determines support specific housing economic opportunities (such as areas of housing shortage due to Marcellus Shale, urgent community needs or other unusual economic development pressures) or the overall housing goals of the Commonwealth, as determined by the Agency.

The Agency, in its discretion, may consider any Application for Strategic Investment. The Agency may consider regional distribution, scale of community impact, extraordinary market and population needs,

unique funding and leveraging opportunities, (such as HUD's Choice Neighborhoods Initiative), disaster recovery response and competitive rankings of Applications, in making Strategic Investment awards including how the development maximizes the inclusion of affordable accessible units in its design.

7. **Community Revitalization/Mixed Income (Urban Pool only)** –The Agency will reserve Tax Credits to, at a minimum, three (3) developments which support a broader community revitalization program which has the capability of changing fundamentally the character of a neighborhood, enhancing the lives and amenities available to residents of the community, is focused on implementing a "mixed income" strategy, and/or which seeks to counteract the pattern through which some metropolitan areas are being segregated by income or race.

The Agency will look at how, in measurable terms, the following aspects are associated with the comprehensive revitalization program of which the development is a part:

- Supports the construction and rehabilitation of housing to meet the needs of households of all income types, including the very low income
  - If the development proposes to offer rents at or close to the Tax Credit program maximum (i) the availability of housing choice vouchers to make some of its units affordable to the area's lowest income households and/or (ii) the projected existence elsewhere in the neighborhood of development(s) that can be expected to provide such affordability
  - Access to public transportation
  - Access to public parks and open space
  - Access to community serving enterprises
  - Encourages the reuse and rehabilitation of existing infrastructures
  - Coordination of proposed site amenities that enhance the overall neighborhood
  - Coordination with an overall community revitalization effort
  - Of sufficient size and scope to have a significant and lasting positive impact on the community (including increasing or stabilizing tax base and economic diversity)
  - Expands quality of life and fulfills a need for health care choices and other crucial service opportunities for residents of the community
  - Municipal support articulated in a publicly approved community plan or in the form of significant funding commitments
  - Presence of supporting local neighborhood initiatives
  - Consistent with the local community's plan to affirmatively further fair housing.
8. **Areas of Opportunity (Suburban/Rural Pool only)** - The Agency will reserve Tax Credits to, at a minimum, three (3) developments which expand housing opportunities and design choices in areas suitable for long-term economic growth with an existing or planned infrastructure to support future growth in the area, in order to promote mixed-use and/or mixed-income development within a community setting. These developments will be located in areas of strong schools and employment opportunities and in communities which may have not received representative resources in the past.

### **Nonprofit Set-Aside**

The Agency will continue to encourage development by nonprofits which have demonstrated commitment to improving the living environment, public health, or safety of local populations in Tax Credit developments and will target a minimum of twenty-five percent (25%) of the state per capita allocation amount towards developments involving qualified nonprofit organizations (the "Nonprofit Set-Aside"). To be eligible, all nonprofits must meet the following requirements:

A nonprofit organization will qualify for consideration under the Nonprofit Set-Aside if it is described in paragraphs (3) or (4) of Section 501(c) of the Code, is exempt from tax under Section 501(a) and will materially participate in the Tax Credit development throughout the compliance period. In addition, the

nonprofit organization must have the fostering of low income housing as one of its exempt purposes. The nonprofit organization must own (directly or through a partnership) at least a 51% interest in the general partner of the partnership entity in accordance with current laws and IRS regulations throughout the development's compliance period. The nonprofit organization may neither be an affiliate of, nor controlled by, a for profit organization. An opinion of counsel addressing the status of the nonprofit organization and qualification for the Nonprofit Set-Aside may be required.

Priority may be given to nonprofits which have a substantial base of operations within the county or municipality of the proposed development. To show a substantial base of operations, the nonprofit must demonstrate that it has provided quality charitable services to persons in the county or municipality without substantial interruption for at least the last two years, or performed other such activities which demonstrate, to the satisfaction of the Agency, that the organization will further the living environment, public health, or safety of persons in the proposed development. The Agency may require certification of IRS Form 990 filings and evidence of good standing with all nonprofit IRS filing requirements.

### **Requests for Additional Tax Credits**

In its discretion, the Agency may allocate such Additional Tax Credits in an amount not to exceed 5% of the initial Tax Credit reservation amount to developments holding a reservation of Tax Credits to support its financial feasibility. Additional Tax Credits are only available for developments that can demonstrate the capacity to close on all financings, including securing additional equity investments, by April 1, 2019. Failure to close by this date will result in pending Applications being removed from consideration. Qualified Applicants must neither have changed any selection criteria nor made any significant modifications, as determined by the Agency, from the initial Application as the initial award of Tax Credits was based on specific selection criteria including development team, total projects costs, sources of funds, units, resident population and building design. Furthermore, in order to qualify for a reservation of Additional Tax Credits, the applicant must demonstrate that an amount equivalent to a minimum of 15% of the developer's fee has been reinvested.

### **SELECTION OF APPLICATIONS**

The Agency will strive to reserve Tax Credits in a manner which results in a geographic distribution statewide. Applications for Tax Credits will be evaluated and ranked based on the Selection Criteria. It is the Agency's intent to follow the preferences established for targeting resources and will award Tax Credits to the highest scoring Applications meeting the stated preferences. Provided Tax Credits are available after the Agency determines that the preferences have been met, the Agency will award Tax Credits to the next highest ranking Application. In the event the Agency determines that an Application has been delayed or faces substantial cost burdens due to some good cause beyond the control and dominion of the Applicant, especially in the event there is a NIMBY or legal challenge to siting of an otherwise viable project, the Agency may provide a preference to fund the Applicant for an alternative viable project which meets similar goals and housing targets in an alternative location (which meets at least a minimum score under the Allocation Plan). The Agency recognizes that lower ranking Applications may be awarded Tax Credits in order to meet the stated preferences, however, the Agency has determined that in order to receive an award of Tax Credits, an Application must meet a minimum point threshold of **one hundred and ten (110)** points.

### **ADDITIONAL RESOURCES, SUBSEQUENT EVENTS AND SUPPLEMENTAL INFORMATION**

The amounts available in each Set-Aside, Pool or Preference may be adjusted by the Agency at any time to ensure adequate and appropriate funding of the Applications meeting the Agency's goals and Program criteria. Should additional Tax Credits or additional resources become available for whatever reason at any time in 2019, especially federal or State funding program opportunities for a specific population such as veterans, emergency response, persons with special needs or persons with disabilities or unique land bank financing opportunities, the Agency will not issue an amendment to this Allocation Plan but will instead make allocations

of such additional Tax Credits or resources based upon priorities and preferences set forth in this Allocation Plan as it deems appropriate.

In the event there are changes in federal law subsequent to the adoption of this Allocation Plan or additional regulatory guidance or clarifications regarding the Tax Credit Program become available, the Agency reserves the right to modify, to supplement or to make conforming amendments to this Allocation Plan and all related documents without formal amendment or additional public hearings. In addition to notifying affected Tax Credit Program Applicants, information about such subsequent changes will be posted on the Agency's website at *www.phfa.org*.

The amounts available in Set Aside or Pool may be adjusted by the Agency at any time to ensure adequate and appropriate funding of the Applications meeting the Program criteria. Further, the Agency may allocate more than the available Tax Credits in each Set-Aside or Pool in order to fully fund a project reservation which has scored sufficient points to warrant funding but for which funds remaining in the Set-Aside or Pool cannot fund the full credit amount needed for feasibility. For developments returning Tax Credits from a previous or current year's allocation, the Tax Credits may be redistributed at the Agency's discretion.

After the Agency reserves Tax Credits for 2019 Applications, the Agency may allocate such Tax Credits as may be available to any Application which either did not receive a reservation or which needs additional credits to fully support its financial feasibility. In addition, the Agency may make binding commitments to allocate Tax Credits through a forward allocation process based on geographic distribution, specific project needs, housing goals or program considerations in the sole discretion of the Agency. ensure that it will be able to completely allocate year 2019 Tax Credits prior to the end of the year. Applicants may not apply for or request a forward allocation.

**Tax Credits are not guaranteed to any party, regardless of the ranking or points achieved through the evaluation process. The Agency will review the geographic location, developers and types of projects to attempt to achieve distribution throughout the Commonwealth.** In addition, the Agency may impose a \$1,200,000 per developer per cycle maximum on the Tax Credits or otherwise restrict the amount of Tax Credits to any particular developer or project at the discretion of the Agency. Based upon the demand for Tax Credits and development rankings, the Tax Credits reserved for any one Applicant (or related entity or material participant) or development in any specific jurisdiction or within a particular Set-Aside may be limited at the discretion of the Agency. Furthermore, Applications with costs that the Agency deems to be excessive based on the facts and circumstances may be rejected or suspended from processing. Moreover, the Agency reserves the right to amend, modify or waive specific nonmaterial submission requirements or requisite documentation to achieve affordable housing programs or affirmatively further fair housing in the Commonwealth.

#### **MAXIMUM PER UNIT BASIS LIMITATIONS**

The Agency has established a maximum basis per unit limit of \$250,000 ("Maximum Basis"). The Agency may consider a waiver of this limit for developments with a significant number of larger bedroom counts. Maximum Basis includes all depreciable costs normally included in the eligible basis determination for rehabilitation or new construction (not including the developer's fee or cost of acquisition). Maximum Basis for the purposes of this calculation may be determined after the deduction for commercial space costs but prior to the pro rata reduction for historic tax credits and other nonqualified financing and costs normally not included in eligible basis.

If the Maximum Basis per unit, as previously described, exceeds the established limits, Agency staff may waive the Maximum Basis per unit for some developments. An Agency waiver of the established limits will be based upon the demonstration of compelling circumstances and justification for the additional basis eligible costs. Compelling circumstances are limited to costs predominately related to the preservation of a designated historic building or necessitated by building in or adjacent to a designated historical district; construction costs attendant to providing supportive services to the resident population that are over and above that typically associated with such housing, including reasonable costs related to the construction of community service

facilities; costs due to structurally unsuitable subsoil conditions; costs associated with environmental remediation of an existing building that will remain in the development; up-front capital expenditures related to energy efficiency systems that exceed threshold requirement and will result in demonstrable savings in utility costs to the development, including solar, geothermal, or other innovative energy savings techniques and costs resulting from local conditions or attempts to exclude affordable housing (this may include excessive impact fees, building code requirements, restrictive zoning, extraordinary litigation costs incurred because of neighborhood opposition and planning requirements). For those properties seeking to exceed limits based on costs due to historic considerations, unsuitable subsoil conditions, costs associated with environmental remediation, or up-front capital expenditures related to energy efficiency systems that will result in demonstrable savings in utility costs, evidence must be provided that such costs are in excess of expenditures required for eligibility for Tax Credits. In addition, a detailed cost breakdown must be provided indicating the difference between the costs for these items and those of typically constructed developments. Applicants must provide full explanation of all alternative site considerations and provide adequate justification of the need for the development at the identified location or a full explanation and adequate evidence of cost savings. For Applications affected by local attempts to exclude affordable housing, Agency staff will not approve Tax Credits above 30 percent of the Maximum Basis limitation. For all other circumstances, Agency staff will not approve Tax Credits above 15 percent of the Maximum Basis limitation. A waiver of the Maximum Basis limitation is solely determined by the Agency.

Developments located in a "qualified census tract" or "difficult development area", as established by HUD, may qualify for Tax Credits based on 130 percent (130%) of the eligible rehabilitation/new construction basis.

Tax Credits in an amount up to 130 percent (130%) of the eligible rehabilitation/new construction basis may also be considered where appropriate by the Agency for Applicants which **provide evidence satisfactory to the Agency** that they have excess development expenses and costs related to:

- Their location in areas of the Commonwealth with limited federal, state, local or financial resources; or
- Their provision of general occupancy units in "areas of opportunity", as defined by the Agency or their siting in order to affirmatively further fair housing or in areas that have not received representative resources in the past; or
- Their provision of supportive housing opportunities; or
- Community impact developments with mixed income (of at least 15 percent market rate units) or mixed use components (commercial space of at least 15 percent of the square footage of the development).

Applications for tax-exempt bond volume cap and the associated 4% Tax Credits are ineligible for the discretionary 30% boost of the eligible rehabilitation/new construction basis.

### **APPLICATION THRESHOLD CRITERIA**

The Agency has determined that the following minimum development characteristics will be considered threshold criteria for all developments seeking Tax Credits. The Agency may waive the requirement of a specific amenity if compelling circumstances exist, or if the inclusion of such amenity adversely affects the financial feasibility of the development or if, due to the nature of the rehabilitation of the development, the inclusion of such amenity is cost prohibitive. The Agency will review the architectural documents submitted with the proposal to confirm the existence of the proposed amenities. A certification from the design architect verifying the inclusion of the amenities in the development must be submitted with the Application. Confirmation from the construction contract administration architect is required with the submission of the cost certification documents. For Applications not requiring the services of an architect, the certifications may be provided by the general contractor. Amenities should be appropriate for the proposed resident population. Verification of the availability of all amenities may be required by the Agency at any time and throughout the development's compliance period.

1. Development Amenities – The following Development Amenities must be included in the proposed development. (Please note that the Applicant should seek independent tax advice as all of the costs of the following amenities may not be includible in eligible basis.)

**On-site Community Room.** The community room must be one room and should be of sufficient size to accommodate the residents and services to be provided. The community room in senior housing developments should include a kitchen or kitchenette that will be available to all residents.

- An on-site community room will not be required for developments with 11 units or less or scattered site properties. Applications which are a continuation of a phased development (or are adjacent to an existing affordable housing property serving the same targeted population group) will be required to provide space sufficient to meet the size requirements below based on the aggregate of the number of units in all phases. (For the cost of a community room or building that is shared with the tenants of multiple phases to be included in Tax Credit eligible basis, it must qualify as a community service facility. Please consult with an accountant or attorney experienced in Section 42 issues for additional information regarding this issue.) The Agency may consider a long term agreement with an existing community facility within walking distance from the development as evidence of meeting this requirement.
- The community room should contain at least 15 net square feet per unit for properties between 12 and 50 units. Community rooms in developments with more than 50 units should be at least 750 square feet in size. The square footage required shall be in addition to the kitchen or kitchenette, where provided.
- **Laundry Facilities.** Common laundry facilities or the provision of individual washers and dryers in each unit are required. If a common laundry is provided in a development that will be converted to homeownership, hook-ups for a washer and dryer must be provided in each unit. If the development contains a common laundry facility, the following requirements must be met:
  - For general occupancy developments: one washer and dryer per 12 units, with a minimum of two washers and two dryers required at each laundry facility.
  - For elderly developments: one washer and dryer per 20 units, with a minimum of two washers and two dryers required at each laundry facility.
  - A minimum of one front load washer and dryer is required for each laundry facility and will be required in accessible units containing a washer and dryer in the unit.
  - All washing machines, whether development owned or vendor owned, must be Energy Star® labeled.
- **Air Conditioning.** For new construction or substantial rehabilitation developments, all common spaces (except stair towers, mechanical rooms and storage rooms) must be air conditioned.
  - Preservation or moderate rehabilitation properties may be required to include air conditioning as part of the proposal if financially feasible and deemed reasonable by the Agency.
- **On-site Management Office.** An accessible on-site management office will be required for all developments except those containing 11 units or less or scattered site properties. Applications which are a continuation of a phased development with a total of more than 11 units that do not include a management office in the current Application will be required to provide evidence of a management office in one of the prior phases.

2. Unit Amenities – The following Unit Amenities must be included in the proposed development.

- The net area of all dwelling units must fall within the limits listed below. (Net area is measured from the interior finish surface of the unit perimeter walls, and shall include all rooms, corridors, interior walls, storage areas, and mechanical spaces.) Rehabilitation developments may vary from the maximums and minimums by 10 percent. Preservation developments shall strive, but are not required, to meet this requirement. Accessible units may vary from the maximums as required to provide an accessible route and accessible clearances.

	FLATS	MULTI-FLOOR UNITS
SRO	90 to 200 sq.ft.	
EFF	400 to 600 sq.ft.	
1 BR	550 to 850 sq.ft.	650 to 950 sq.ft.
2 BR	700 to 1,100 sq.ft.	850 to 1,300 sq.ft.
3 BR	950 to 1,350 sq.ft.	1,000 to 1,550 sq.ft.
4 BR	1,100 to 1,550 sq.ft.	1,200 to 1,750 sq.ft.
5 BR	1,300 to 1,750 sq.ft.	1,400 to 2,000 sq.ft.

- Air conditioning shall be supplied to living areas and all bedrooms of each unit. Individual window units will not be considered as meeting this criterion, except in preservation developments.
- Refrigerators, ranges and ovens will be required in all units except for developments containing SRO units provided that such properties have common cooking facilities containing these appliances.
- Window treatments in all residential units are required. Window treatments include venetian blinds, vertical blinds, or other opaque blinds. Roller shades will not be considered in this category.

3. VisitAbility – The following dwelling unit types shall meet the VisitAbility requirements: 100% of newly constructed single family homes, townhouses, and units in elevator buildings; all ground floor units in walk-up apartment buildings. Rehabilitation developments should strive for 100% compliance, but at least 25% shall meet the VisitAbility requirements. Properties unable to comply with this requirement due to physical constraints or building type may apply for a waiver from this threshold requirement. To meet VisitAbility design features, the building and units must have at least one zero-step entrance with a 36-inch wide door; all doorways and passages on the entry level floor should have a width of 36 inches; there should be a clear pathway to a bathroom or powder room; such bathroom or powder room should include a minimum 24-inch grab bar beside the toilet on a reinforced wall, which can also serve as a towel bar; and there should be a clear pathway to the living room and dining area of the unit. The VisitAble powder room or bathroom must provide maneuverability clearances in accordance with the Fair Housing Act Design Manual. (Preservation developments are exempt from this requirement but are encouraged to provide VisitAble units where feasible.)

4. Fair Housing Act - All new construction developments shall be designed in conformance with the Fair Housing Act Design Guide standards, as applicable. Substantial rehabilitation developments shall also be designed in accordance with the Fair Housing Act Design Guide, as applicable, but may seek a waiver from the Agency where existing conditions prohibit 100% compliance. Blocking for future grab bars shall be continuous behind the bar location and sized to accommodate the grab bars required by ANSI A117.1-2009.

5. Phase I Reports – A Phase I Environmental Site Assessment prepared in accordance with ASTM E 1527-13 and the Agency requirements found in the Submission Guide for Architects is required for all developments. The report cannot be more than 12 months old at the time the Application is submitted. An

updated report provided by the original report's environmental consultant may be provided when the original report is between 12 and 24 months old at the time the Application is submitted. Only the executive summary of the Phase I report shall be submitted in the Application. The summary shall be accompanied by a certification from the sponsor stating that any issues raised in the environmental review have been reviewed and budgeted for accordingly in the development budget. For existing buildings scheduled for rehabilitation or preservation developments, the Phase I report must also include the results from the following tests: lead in water, lead-based paint, asbestos and radon. Cost estimates for any remediation work shall be provided and included with the Phase I executive summary.

#### 6. Development Sustainability and Energy Conservation Measures –

- All new construction and rehabilitation developments must meet the mandatory measures outlined in the 2015 Enterprise Green Communities Criteria (see [www.enterprisecommunity.com/criteria](http://www.enterprisecommunity.com/criteria) ) which set forth minimum standards for design, location, site improvements, water conservation, energy efficiency, materials beneficial to the environment, healthy living, and operations and maintenance of the development. Preservation developments shall meet the mandatory measures found in the “Design Architect’s/Applicant’s Certification of Threshold Criteria” in the Guidelines. (Not required if Applicant commits to achieving certification under one of the Green Building Standards listed in the Selection Criteria.)
- Additionally, for new construction and rehabilitation developments, the overall U-value of the exterior building envelope must exceed the requirements of the 2009 International Energy Conservation Code Chapter 4 by 10% for buildings three stories or less in height as verified by a REScheck certificate. Buildings four or more stories in height must exceed the requirements of the 2009 International Energy Conservation Code Chapter 5 by 3%, as verified by a COMcheck certificate. Air sealing of the exterior building envelope and attic plane shall be included. Trade-offs available in the REScheck or COMcheck software for mechanical equipment will not be allowed. (Not applicable to preservation developments.)
- In new construction and rehabilitation developments, all appliances, HVAC equipment with a capacity less than 60,000 btuh, gas fired water heaters, windows, ceiling fans, exhaust fans, range hoods and exit signs shall be Energy Star® labeled when such equipment and appliances exist. (Exceptions: programmable thermostats do not need to be provided, and windows in buildings over three stories in height may comply instead with ASHRAE Standard 189.1-2009.) (Packaged terminal air conditioners (PTACs) and packaged terminal heat pumps (PTHPs) may only be used if it can be proven that they comply with the prescriptive requirements of Energy Star® Version 3.0 for air-source equipment.) In addition, 100% of the permanent room light fixtures in the dwelling units shall be equipped with LED bulbs, or high efficiency fluorescent with electronic ballasts; and 100% of the community room and common area corridor and stair lighting shall be fluorescent with electronic ballasts or shall utilize LED bulbs.
- In preservation developments, existing refrigerators more than 15 years old shall be replaced with Energy Star® labeled type. Existing heat pumps, air conditioning condensing units, and through-wall air conditioners more than 20 years old shall be replaced with Energy Star® labeled type, when such equipment exists. Existing furnaces and boilers more than 25 years old shall be replaced with Energy Star® labeled type, when such equipment exists. (Programmable thermostats do not need to be provided.) In addition, existing community room, common area corridor and stair lighting more than 15 years old shall be replaced with fluorescent fixtures with electronic ballasts or fixtures that utilize LED bulbs. Where windows are scheduled for replacement, replacement should be made with Energy Star® qualified products, except in buildings over three stories in height, where window replacement may comply instead with ASHRAE Standard 189.1-2009.

- All developers must certify that when existing equipment, appliances and products are replaced, they will be replaced with Energy Star® labeled equipment, when such equipment exists.
- All developments must meet the Additional Threshold Green Building Criteria set forth in the 2019 Guidelines.

Please review the Multifamily Housing Application and Guidelines for specific sustainability and energy conservation requirements.

7. **Affordability of Units** - Developments must provide a financing plan which evidences that at least ten percent (10%) of the low income units in Urban Areas and five percent (5%) of the low income units in Suburban/Rural Areas are affordable to persons at or below twenty percent (20%) of the area median income, adjusted for family size. For developments consisting of all low income units, at least half of these units must be accessible. For mixed income developments containing market rate units, 5% of the units must be accessible. (Existing affordable developments with a demonstrated average occupancy rate of 90 percent or above over last 5 years may be exempt from having to meet the twenty percent (20%) area median income requirement for these units.) The development must evidence a viable plan to charge rents at levels affordable to persons at or below twenty percent (20%) of area median income for these units throughout the compliance period. In the event the plan includes utilization of Project Based Section 8 and appropriation for such assistance is not renewed (provided that non-renewal is not due to the development's default on program obligations), the twenty percent (20%) area median income requirement may be waived with the consent of the Agency for reasons beyond the development's control. An agreement shall be in place with appropriate referring entities (including those supported through programs of the Department of Human Services) to assure that sufficient referrals for tenancy are received from households who are income-eligible and/or in need of the accessibility features. Additionally, the Agency may require additional applicable program restrictions to comply with its award of project-based subsidy from HUD of Section 811 Demonstration Program funds or similar program opportunities. The Restrictive Covenant Agreement will require that the extremely low rents are maintained and that a corresponding number of units are marketed to and set aside for such extremely low income households throughout the compliance period.
8. **Broadband Infrastructure** – The installation of broadband infrastructure is required in all new construction and substantial rehabilitation developments, in compliance with Federal Register 81 FR 31181 “Narrowing the Digital Divide through Installation of Broadband Infrastructure.” Installation of broadband infrastructure is encourage, but not required, in preservation developments.
9. **Smoke-Free Developments** – The applicant shall certify that, at construction completion, the Applicant will design and implement a policy prohibiting the use of prohibited tobacco products in all units, common areas and outdoor buildings within 25 feet from all of the buildings in the development.

## **APPLICATION SELECTION CRITERIA**

### **General Processing Information**

Upon receipt of the Application, the Agency will review the site and market information contained in the Application and will conduct a development site visit if the Agency deems the development to be financially feasible based on the information submitted in the Application. The Agency anticipates that the number of Applications will significantly exceed the amount of Tax Credits availability for allocation, therefore, the Agency may use amount of resources available and readiness to proceed and commence construction as factors in making these determinations.

The Agency will review the Application and assign points based on the Selection Criteria. Applications will be underwritten by the Agency at the adjusted gross pay-in provided in the Application but the Agency may adjust the pay-in during underwriting based upon market conditions, the targeted resident population or investor information (including adjustors, conditions and contingencies). A development must address a

substantial number in each of the six categories of Selection Criteria in order to qualify for a reservation of Tax Credits. The Agency has established a minimum point threshold of **one hundred ten (110)** points for Applications during the Year 2019 Tax Credit Program. The Agency reserves the right, at any time, to require submission of such documentation or additional support as it deems necessary to evidence any of the items set forth herein including, without limitation, additional independent market studies, independent appraisals, evidence of property location and accurate deed and title information, investor data and equity letters, partnership agreements, independent capital needs assessments and opinions of qualified tax counsel or certified public accountants and 2019 Guidelines.

All Tax Credit reservations are made based upon the information contained in the Application. Unless specifically directed or approved by the Agency, changes or supplements to an Application during the processing period for ranking are not permitted. Changes in an Application made by the Applicant after a reservation is received affecting any of the Selection Criteria features will result in reconsideration of the ranking and may lead to a “rescission” of the conditional reservation. As a reminder, certain Selection Criteria will be incorporated into the Restrictive Covenant Agreement and monitored during the compliance period. Changes in any of the Selection Criteria subsequent to issuance of an IRS Form 8609 may result in noncompliance, may lead to specific enforcement action against the development and may result in the loss of Tax Credits to the development and its investors, and disqualification for program participation in the future.

**The scoring and ranking of an Application does not guarantee funding by the Agency. In the event the Agency departs significantly or materially from the ranking and scoring criteria, it shall document such departure if required by the Code. De minimus adjustments, as determined by the Agency, are authorized.**

The Selection Criteria are set forth in Exhibit SC2019.

### **RANKING OF DEVELOPMENTS**

Applications will be evaluated to determine the amount of Tax Credits required to make the Application economically feasible and to ensure the Application's long term viability. If two or more developments have the same ranking within a Set-Aside, Pool or Preference and only one Application can be awarded Tax Credits, the Agency will select the Application that has a higher percentage of units available to residents whose incomes are at or below 50 percent of area median gross income as compared to total number of Tax Credit eligible units. If the Applications have the same percentage of units serving residents at or below 50 percent of area median income, the Agency may select the Application that it determines best fits the Agency’s affordable housing priorities and achieves geographic distribution. In any instance, the Agency may favor selection of an Application which best evidences an ability to proceed.

The Agency's determination as to the amount of Tax Credits reserved for or allocated to an Application shall not be construed by the developer, lender, or any other interested party to be a warranty of the Application's feasibility and viability, nor shall such determination constitute a representation of compliance with any requirements of the Code.

### **DEVELOPER'S FEE**

The developer's fee, which is meant to compensate the developer for staff time, effort and work involved in the development of the property, includes developer's expenses, overhead, profit and consulting fees or other fees and costs that are above the maximums allowed by the Agency. Development consultant's fees and organizational costs are required to be paid from the developer's fee. These fees may not be listed and shall not be recognized as separate line items on the Application.

The maximum “base” developer fee allowable (except as limited below) is calculated on the lesser of the development’s replacement cost (less all costs of acquisition) or the Agency’s maximum basis. For developments that have 25 or more units, the developer's fee is limited to 15 percent of the first \$10 million of replacement cost of the development less all costs of acquisition and 10 percent on every \$1 of replacement

cost thereafter. For developments of 24 units or less, the developer's fee is limited to 20 percent of the replacement cost of the development less all costs of acquisition.

In determining the maximum base developer fee the following criteria must also be considered:

- The developer's fee to be earned on Applications from existing Tax Credit properties with the same or a related party or affiliated entity as the general partner on the original Application may not exceed twelve percent (12%) of replacement cost less all costs of acquisition.
- The developer's fee to be earned on Applications from subsequent phases of a project previously awarded tax credits may not exceed twelve percent (12%) of replacement costs less all costs of acquisition.
- For rehabilitation and preservation developments that qualify for Acquisition Tax Credits, a developer's fee will be allowed on a portion of the acquisition cost that is basis eligible. The fee may not exceed 10 percent of the purchase price of the property less the cost of the land. The maximum acquisition cost that will be recognized in determining the developer's fee will be the lesser of the actual amount paid for the building or the MAI appraised value. The Agency may limit the acquisition developer's fee to 5 percent if the seller and buyer are related parties.
- The Agency may impose a developer's fee cap of \$1,500,000 per development on the total developer's fee allowable for costs associated with both the rehabilitation and acquisition of the development.
- Additional developer's fee will not be available for Applications requesting Additional Tax Credits.
- Requests for an increase in the amount of the maximum base developer fee after the initial award of Tax Credits will not be accepted.

In addition to the maximum base developer fee, Applicants may request an additional five percent (5%) developer fee. The five percent (5%) is determined exclusive of acquisition costs. The Applicant must commit to provide to the development the entire amount of the equity raised for the additional developer's fee to fund an internal rent subsidy for all threshold required units set aside for persons at or below twenty percent (20%) of area median income for the initial fifteen (15) year compliance period and/or to subsidize rents to persons with income at or below forty percent (40%) of the area median income for the initial 15 year compliance period; or to fund a supportive services escrow for the provision of social supportive services for the benefit of the residents (provided the plan for services is satisfactory to the Agency). Funds deposited in an internal rent subsidy will be limited to the difference between the twenty percent (20%) /forty percent (40%) rent and the rent at fifty percent (50%) of area median income, as applicable. The Agency reserves the right to determine the exact mechanism necessary and appropriate to ensure funding of the internal rent subsidy or supportive service escrow based on specific tax issues and ownership structure. Additionally, during the initial fifteen (15) year compliance period, the Agency may review, approve and monitor utilization of the internal rent subsidy or supportive service escrow funds. For developments not receiving Agency financing, Agency staff will only approve an increased developer's fee if the Applicant provides adequate assurances and documentation (including evidence of a third party escrow arrangement) that an amount of funds equal to the increased equity raised from the additional developer's fee is necessary to support financial operations and will be committed to the Project for at least the initial fifteen (15) year occupancy period. Whenever an increased developer's fee is allowed, the partnership or operating agreement must provide that the approved developer's fee will, in fact, be paid to the developer from available funds (which may include development sources, operating revenue and additional capital contributions). Additionally, provision of funds for supportive services or to fund various internal rent subsidies will be incorporated in the Restrictive Covenant Agreement.

### **TAX EXEMPT FINANCED DEVELOPMENTS**

All tax exempt financed developments utilizing Tax Credits in their financing plan must submit a Tax Credit Application and must be evaluated in accordance with the 2019 Tax Credit Allocation Plan and the 2019 Multifamily Housing Program Guidelines pursuant to the 2019 Request for Proposals for Tax Exempt Volume Cap. Developments receiving tax exempt financing for at least 50 percent (50%) of the aggregate basis of the

property including land are not required to receive an allocation of Tax Credits through competitive allocation from the Agency. The eligible basis of the development would qualify for the Tax Credits without competing through the regular allocation process; however, the Agency requires that the Application meet the threshold criteria and minimum threshold points under the Selection Criteria. Developments receiving tax exempt financing on less than 50 percent (50%) of the aggregate basis will be eligible for Tax Credits on only that portion of the eligible basis financed by the tax exempt bonds. For the remaining portion, the owner must apply and compete for an allocation of Tax Credits from the Agency in the established allocation process, but the Agency may adjust the threshold for qualified applicants.

Only that amount of Tax Credits that is necessary to ensure feasibility and long term viability will be issued on the IRS Form 8609. See the applicable Agency Guidelines for the appropriate documentation to be submitted and the applicable timeframes.

Because of the competitive nature of Tax Credits, the Agency may require certain applicants to pursue Tax Exempt financing as an alternative to seeking 9% Tax Credits. Specifically, developments which have access to federal resources may be required to provide information regarding the financial feasibility with Tax Exempt financing. Additionally, for developments seeking Tax Exempt financing, the Agency may waive such timelines, processing and program requirements, in its discretion, to encourage and facilitate such financings. The Agency may also allow costs per unit above Maximum Basis limits and may allow higher developer's fees for developments using this funding source.

### **SUBSIDY LAYERING REVIEWS**

Pursuant to Section 911 of the Housing Community Development Act of 1992, HUD published administrative guidelines concerning subsidy layering review of Tax Credit developments receiving assistance from the HUD's Office of Housing. The guidelines provide for the delegation of subsidy layering reviews for certain programs to Tax Credit allocating agencies. Pennsylvania requested and has been delegated this subsidy layering review responsibility. Section 911 guidelines provide the Tax Credit allocating agencies with standards for evaluating builder's profit, developer's fee, syndicator expenses, and net syndicator proceeds. The guidelines include both a safe harbor standard and ceiling standard for each category. The Tax Credit allocating agency may simply use the safe harbor standards or through the Allocation Plan may raise the safe harbor standards to the published maximum ceiling standards. The Agency has elected to raise the safe harbor guidelines to the maximum ceiling standards established for the Section 911 layering review since the ceiling standards are within the fee and cost limitations already established for the Tax Credit Program.

The Agency has also been approved to conduct subsidy layering reviews for Applications with proposed Section 8 Project-Based Voucher Housing Assistance Payments Contracts, and will conduct these reviews in accordance with the Administrative Guidelines published in the July 9, 2010, Federal Register (or as subsequently amended or supplemented).

Beginning in 2012, the Agency entered into a tri-party Memorandum of Understanding with HUD and the USDA – Rural Development wherein the Agency conducts subsidy layering reviews for Applications with Section 515 program assistance or other federal assistance subject to federal subsidy layering review requirements. The Agency may charge fees to process these reviews as set forth in the Guidelines.

### **PLACED-IN-SERVICE/CARRYOVER ALLOCATION**

All developments receiving a conditional reservation of Year 2019 Tax Credits must either be placed in service by December 31, 2019 or, by the date set forth in the Reservation Letter, be eligible for a carryover allocation of Tax Credits pursuant to Section 42 (h)(1)(E) of the Code. All processing deadlines for Carryover Allocations must be met. The Agency reserves the right to update or amend the Carryover Allocation deadlines and processing timeframes and will publish any and all modifications on its website.

To qualify for a Carryover Allocation, an owner must, by the required date set forth in the Reservation

Letter, have evidence of ownership of the land or the depreciable real property that is part of the proposed development. The Agency may, in its sole discretion, accept either an Attorney's Opinion Letter or a Certified Public Accountant Letter that certifies that the owner has carryover allocation basis for the development pursuant to the Code; or an owner's certification which includes sufficient identification of the property (i.e. legal descriptions, surveys, title insurance) to assign building identification numbers. In making this certification, the owner accepts full responsibility for all discrepancies, errors or omissions of properties and acknowledges that subsequent adjustments may require Internal Revenue Service approval. Additionally, no later than or such date set forth in the Reservation Letter, owner must incur more than 10 percent (10%) of the "reasonably expected basis" in the property, including land. The "reasonably expected basis" is that basis which is expected to be incurred as of the close of the second calendar year following the calendar year of the Carryover Allocation. See the 2019 Guidelines for further details and additional processing deadlines which will be posted to the Agency's website, [www.phfa.org](http://www.phfa.org).

### **PROCESSING PROCEDURES**

Developments receiving a conditional reservation of Tax Credits are subject to the 2019 Guidelines and in the event the initial reservation is modified or amended, the 2019 Guidelines shall remain in force and effect for the property. However, the Agency may amend the 2019 Guidelines from time to time to further comply with Tax Credit Program requirements or to enable Agency staff to better fulfill its administrative duties and such changes would be applicable to the development.

The Agency reserves the right, in its sole discretion upon review and approval of a committee of the Board, to provide an allocation of Year 2019 Tax Credits to a development, without requiring re-ranking under the Year 2019 Allocation Plan. The development must be currently holding a valid allocation of Tax Credits and, due to circumstances beyond its control, be unable to meet Tax Credit program placed in service deadlines. The Tax Credits will be allocated upon release and return of the prior allocation. Such circumstances may include delays caused by local government's opposition to affordable housing; delays due to the failure of the federal government to release funding program guidelines or regulations in a timely manner or due to temporary freezes in federal government budget authority for program activity; or similar extraordinary and compelling basis (and but for such circumstance, Agency program deadlines and requirements would have been met). Notwithstanding the above, developments which need additional Tax Credits to be viable for their equity closing must submit a new Application for funding with the Agency. Such developments will not be considered for substitution of Tax Credits if their Application has substantially changed. Further, the Agency will generally not consider any other Applications for Tax Credits for a new development submitted by the same applicant (or related entity or material participant) during the same or subsequent funding round for Tax Credits if it provides this extraordinary relief due to the developer's inability to meet placed in service deadlines.

### **DEVELOPMENTS WITH MULTIPLE BUILDINGS**

A development may include multiple buildings if it has similarly constructed units, is located on the same or contiguous tracts of land, is owned by the same federal taxpayer and is financed pursuant to a common plan of financing. A development with multiple buildings that is proposing a mixed income structure must have low-income units in each building of the development. Scattered site buildings on noncontiguous tracts of land may also qualify if the development meets all of the other requirements described above and the development is 100 percent rent and income restricted, however, costs associated with the development of a separate community building may not be eligible for Tax Credits unless the building contains a residential rental unit.

## COMPLIANCE

Owners are responsible for ongoing compliance with all requirements of the Code and the Agency's Compliance Program Manual, including such rules, regulations, administrative revenue proclamations and revenue rulings as may be issued from time to time.

Each owner of a Tax Credit development must execute an agreement setting forth allowable occupancy and use restrictions, owner responsibilities and continuing Section 42 qualified development characteristics. This agreement, the "Restrictive Covenant Agreement," must be recorded for the maximum period required by the Code and no Tax Credits may be claimed by a property owner in any taxable year unless the Restrictive Covenant Agreement is in effect and is appropriately recorded on the property in the county land records.

The Agency will monitor each Tax Credit development for compliance with the Code. Such requirements may change from time to time and the protocol for compliance monitoring may be adjusted as deemed necessary or appropriate by the Agency. In addition to monitoring for all federal requirements, developments will be monitored for compliance with the occupancy standards, Selection Criteria and other covenants set forth in the Restrictive Covenant Agreement. A form authorizing the release of compliance information is on the Agency's website, [www.phfa.org](http://www.phfa.org). However, the Agency may release related information even if no release form is submitted.

The Agency has established an interactive database ("PA Housing Search") for all affordable housing units in developments participating in any of the Agency's multifamily housing programs, to provide a resource for households seeking affordable housing throughout the Commonwealth and to provide a marketing tool to owners. All developments receiving Tax Credits must participate in this data collection effort, which may also include submission of a resident survey, and will be expected to provide information including, but not limited to unit amenities, household size, household income and move-in information and any ongoing unit vacancies in a secure and timely manner. Owners are reminded that they must comply with the Agency's Accessible Unit Policy (see 2019 Guidelines). Additionally, owners must participate in the Agency's energy benchmarking program.

All owners must keep the following records for each qualified low income building in the development for each year of the compliance period: the number of residential units in the building, the number of low income units in building, the number of occupants in each low income unit, the number of bedrooms in each unit, the square footage of each unit, the rent charged on each unit including the utility allowance, the low income unit vacancies in the building and the rentals of the next available unit for each building in the development including when and to whom it was rented. The owner must also keep documentation of the eligible basis and the qualified basis of the building as of the end of the first year of the Tax Credit period. Owners must also keep a record of the annual income certification of low income residents along with documentation to support the certification. (Effective January 1, 2009, Owners with 100% of the units qualified as Tax Credit units do not have to provide annual income certifications but must provide updates on household composition, student status and rent on the Agency's on-line compliance reporting system or on PA Housing Search. In addition, subsequent data collection efforts may be applicable to the Development and each Owner must agree in advance to participate in these data collection initiatives which may include availability and occupancy of accessible units and submission of tenant and project paid utility documentation for the entire development.) Owners renting to holders of Section 8 certificates or vouchers may ask the public housing authority issuing the certificates or vouchers to provide a statement declaring that the resident's income does not exceed the applicable income limit under the Code. Any nonresidential portion of a building included in the eligible basis of the building must demonstrate its availability to all residents in the building at no additional cost to the residents.

Records for the first year of the Tax Credit period must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building. In all subsequent years of the Tax Credit period, records must be kept by property owners for a minimum of 6 years after the due date (with extensions) for filing the federal income tax return for the year.

The Agency will also review and monitor developments for compliance with required certification submissions. Owners must provide certification at least annually to the Agency, under penalty of perjury, through the Agency's on-line compliance reporting system, as to the following: the development meets the requirements of the elected minimum set-aside test; the applicable fraction, as defined in Section 42(c)(1)(B) of the Code, of each building in the development has not changed, or, if there was a change, a description of the change; owner has received the annual income certification from each low income resident along with supporting documentation; the low income unit is rent restricted under Section 42(g)(2) of the Code; all units are available to the general public and used on a non-transient basis and no finding of discrimination under the Fair Housing Act has occurred for the development; each building is suitable for occupancy pursuant to local health, safety and building codes and meets all habitability standards for the Tax Credit Program; the building's eligible basis pursuant to Section 42(d) of the Code has remained the same (or if there was a change, the nature of the change); and any resident facility in the building is available to all residents in the building on a comparable basis without a separate fee charged to the resident. Furthermore, owners must certify that no low-income resident of a Tax Credit property will be or has been evicted or otherwise had their lease terminated other than for good cause and owner must confirm that all leases state this affirmatively. **The Agency requires a copy of the form of lease with Agency's Lease Addendum to be submitted.** Experience as a victim of domestic violence alone may not constitute good cause for eviction under the terms of the lease (if other occupancy rules are met) and all applicable Violence Against Women Act provisions must be met. Owner must also certify that if a low income unit becomes vacant, reasonable attempts will be made to rent that unit to a qualified low income resident, and while that unit is vacant no units of comparable or smaller size may be rented to a non-qualified low income resident. If a low income resident's income rises above the limit established in Section 42(g)(2)(D)(ii) of the Code, all available units of comparable or smaller size in that building must be rented to an income qualified resident. Owner must also certify that an extended low income housing commitment, as described in Section 42(h)(6) of the Code, was in effect for all qualified low income buildings in the development. Owner must also certify that a unit lease has not been refused to a Section 8 applicant because the applicant holds a Section 8 voucher or certificate. Owner's certifications of these items must be submitted at least annually or with such greater frequency as may be required by the Agency. The Agency may adjust any and all of its compliance protocols as it deems appropriate throughout the compliance period and the extended use term covered by the Restrictive Covenant Agreement.

The Agency may review the information set forth on the certifications at any time for compliance with the Code. On-site inspections of all Tax Credit developments will be held from time to time, at the sole discretion of the Agency, for compliance with the certification requirements, habitability standards, rent records, lease provisions, supporting documentation and all record keeping requirements in the low income units. Physical inspections of all buildings and at least 20% of all low income units are performed at least once every three years. The Agency will determine which developments and which records it will inspect and how often such inspections will be conducted in its discretion. The Agency retains the right to perform on-site inspections at any time during the compliance period for any Tax Credit development or to conduct more frequent or more detailed site visits if the Agency deems it appropriate. As referenced above, the Agency may also require submission of ongoing data from each property regarding move-ins and vacant units.

Audited financial statements must be submitted annually to the Agency's Compliance Monitoring Department for all properties with twenty (20) or more units. If audited financial statements are not available, a compilation must be prepared and submitted to the Agency's Compliance Monitoring Department. (Applications for Tax Credits in any year may be rejected from organizations or individuals who have not submitted to the Agency the audited financial statements for a Tax Credit development for the preceding tax year.)

As required by the IRS, in the event the owner or the development does not comply with any of the provisions of the Code, the Agency will provide written notice to the owner that specifies a correction period that may not exceed 90 days, unless extended by the Agency in writing. Upon the expiration of the correction period set forth in the written notice to the owner, the Agency must file IRS Form 8823 "Low Income Housing Credit Agency Report of Noncompliance" ("IRS Form 8823") with the IRS to advise the IRS of the existence

of an event of noncompliance with an explanation of the nature of the event and whether the owner has corrected the noncompliance. Any change in either the applicable fraction or eligible basis resulting in a decrease in the qualified basis will be treated as an event of noncompliance. In addition, any failure to provide required information to the Agency on a timely basis in accordance with its written request or the procedures established in Agency directives or set forth in its Compliance Program Manual may be treated as an event of noncompliance and may result in the filing of IRS Form 8823. Failure to continually meet the requirements of the use, occupancy and other conditions relevant to the operation of the development, as set forth in the Restrictive Covenant Agreement, may be treated as an event of noncompliance and may result in the filing of IRS Form 8823. After the initial fifteen (15) year compliance period, Owners must continue to comply with all terms and conditions of the Restrictive Covenant Agreement and provide supplemental data and information upon request.

The Agency will assess owners an upfront compliance fee designed to cover administrative expenses associated with the performance of compliance monitoring. Additional fees may be charged, as necessary and appropriate, for any property.

The Housing and Economic Recovery Act (HERA) of 2008 requires each state Credit allocating agency to provide HUD with information on the race, ethnicity, family composition, age, income, use of federal rental assistance, disability status, and monthly rental payments of households residing in each property receiving Housing Credits. All developments receiving Tax Credits must participate in this data collection effort and will be expected to provide the required information in the form, manner and timeframe required by the Agency.

***EXHIBIT URBAN***

The following urban areas qualify for Application submission in the Urban Pool of the 2019 Program Year.

**Allegheny County**

City of Pittsburgh

**Berks County**

City of Reading

**Blair County**

City of Altoona

**Cambria County**

City of Johnstown

**Dauphin County**

City of Harrisburg

**Delaware County**

City of Chester

**Erie County**

City of Erie

**Lackawanna County**

City of Scranton

**Lancaster County**

City of Lancaster

**Lawrence County**

City of New Castle

**Lebanon County**

City of Lebanon

**Lehigh County**

City of Allentown

City of Bethlehem

**Luzerne County**

City of Hazelton

City of Wilkes-Barre

**Lycoming County**

City of Williamsport

**Northampton County**

City of Bethlehem

City of Easton

**Philadelphia County**

City of Philadelphia

**York County**

City of York

**Exhibit SC2019  
Selection Criteria**

**A. Community and Economic Impact**

*30 points*

It is the goal of the Agency to encourage affordable housing in areas with job opportunities; in areas near strong and stable communities and in areas which demonstrate the capacity for community revitalization opportunities. The Market Study /Needs Assessment must identify the criteria set forth in the Community and Economic Impact Selection Criteria for ranking consideration in this category. To that end, up to 30 points may be awarded to developments located in areas that demonstrate the following relative to the immediate market area:

1. Underserved Areas – up to twenty (20) points

a. General Occupancy - Areas of Opportunity – up to eighteen (18) points

- Low poverty rates
- Limited affordable housing options, both subsidized and non-subsidized
- Limited affordable housing production in past twenty (20) years
- Close proximity to employment
- Strong housing markets
- High owner-occupied markets

b. General Occupancy – School Performance Standards – up to two (2) points

The Agency may award up to two (2) points to those developments located in a school district whose senior high school scores the following Building Level Academic Score set forth in the Pennsylvania State Performance Profile listed at [www.paschoolperformance.org](http://www.paschoolperformance.org):

<u>Percentage</u>	<u>Points</u>
≥70%-80%	1
>80%	2

c. Senior Occupancy Developments –

- Large number of seniors eligible for affordable housing
- Limited affordable housing options, both subsidized and non-subsidized
- Limited affordable housing production in past twenty (20) years
- Close proximity to amenities for the senior population, including health and retail establishments, home health agencies, and hospitals.

AND/OR

2. Community Revitalization

a. For New Construction and Substantial Rehabilitation Properties:

Community Revitalization Plans, Evidence of Municipal and Local Support, Access to Transportation and Existing Infrastructure and Community Resources and Suitability of Site – A critical circumstance is the development's forming an important part of a broader or comprehensive program of neighborhood improvement which has the capability of changing

fundamentally the character of that neighborhood or enhancing the lives and amenities available to residents of the community. Such improvement should include the provision of mixed income housing. A program of neighborhood improvement includes municipal support articulated in a publicly approved community plan or in the form of significant funding commitments, or evidence of substantial major investment in the area that is consistent with a comprehensive plan for neighborhood improvement which may include contributing to a transit oriented design initiative. Such funding commitments or major investments cannot be derived solely from the development of Tax Credit properties and may include proposals participating in: Main Street, Elm Street, Neighborhood Partnership or other programs of the Commonwealth, the Agency's Homeownership Choice Programs; New Markets Tax Credits, the Healthy Village Initiative of the Local Initiatives Support Corporation; the Blueprint Communities Initiative of the Federal Home Loan Bank or similar community support programs. Additionally, the plan should generally include municipal support, private investment and/or private sector commitments to the area or evidence infrastructure in place to support the development. The Agency will consider in its evaluation of community impact the use of existing housing or buildings if the development is not located in a qualified census tract. Up to twenty (20) points may be awarded in this category as follows:

- Community Revitalization Plan – The Agency may award five (5) points for developments contributing to an existing community revitalization plan. To qualify for points in this category, the applicant must submit a letter from an official of the local government explaining how the development will contribute to the community revitalization plan. The letter should be specific to the proposal and must identify the official title of the community revitalization plan along with the year in which it was adopted. The Agency may accept a copy of the community revitalization plan in lieu of a letter from the local government in the event the developer is unable to obtain such a letter. A county or municipal zoning or land use plan does not qualify as a community revitalization plan.
- Significant Funding Commitments and Coordination with Other Housing and Community and Economic Development Programs – The Agency may award up to five (5) points to proposals that demonstrate further coordination between other housing and community and economic development programs stated above and evidence of significant funding commitments as part of the major investment in the area.
- Mixed-Income Housing – The Agency may award up to two (2) points for developments which incorporate market rate units as part of the unit mix **with a demonstrated financial benefit to the development**. In order to qualify for points, at a minimum fifteen percent (15%) of the units shall be targeted as market rate units.
- Transit-Oriented Design – The Agency may award up to two (2) points to developments located within one-half mile of a completed or planned public transportation fixed route stop.
- Walkability – The Agency may award up to two (2) points for developments which have the following walk scores according to [www.walkscore.com](http://www.walkscore.com) (for scattered site projects, a walk score will be obtained for each site and a weighted average based upon number of units at each site will be calculated):

<u>Urban</u>		<u>Suburban/Rural</u>	
<u>Percentage</u>	<u>Points</u>	<u>Percentage</u>	<u>Points</u>
≥80	2	≥70	2
≥70-79	1	≥50-69	1

- Site – The Agency may award up to four (4) points to developments based upon site suitability for the proposed use. Site suitability will be based on the following features: unit size mix, including number of efficiency units; neighborhood amenities; access to site; appropriateness of site for targeted tenant population; availability of sufficient parking; location relative to flood plain; neighborhood nuisances; condition of neighborhood; building on agricultural land; if scattered site, overall impact on the neighborhood; completed project’s improvement to or impact on the neighborhood including, but not limited to, crime reduction.

b. For Preservation Properties:

Developments seeking consideration for the Preservation Preference must demonstrate the need for Tax Credits to extend the affordability period of the existing property to ensure the continued availability of long-term subsidy or to address immediate health and safety concerns of the development. Points will be awarded based upon the following factors: ability to convert to market, loss of long-term subsidy, need for immediate health and safety improvements, good faith compliance with original extended use commitments, financial impact of proposed improvements (including energy efficiency upgrades) and economic impact on the existing community. Additional consideration will be given for those developments which include municipal support articulated in a publicly approved community plan or in the form of significant funding commitments, or evidence of substantial major investment in the area that is consistent with a comprehensive plan for neighborhood improvement which may include contributing to a transit oriented design initiative. Up to 20 points may be awarded in this category as follows:

- Significant Funding Commitments and Coordination with Other Housing and Community and Economic Development Programs – The Agency may award up to three (3) points to proposals that demonstrate further coordination between other housing and community and economic development programs stated above and evidence of significant funding commitments as part of the major investment in the area.
- Risk of Loss Due to Market Conversion or Sale – The Agency may award up to four (4) points to developments which are at risk of conversion to market rate housing. To be eligible for consideration, applications must include evidence that Section 8 project based or similar affordability restrictions expire within twelve (12) months from the date of application. Additionally, evidence of sustained occupancy greater than ninety percent (90%) over the last five (5) years must be provided.
- Risk of Loss Due to Critical Physical Needs – The Agency may award up to four (4) points to developments which are beyond fifteen (15) years of initial loan closing and tax credit placed-in-service date and at least one major physical plant component must be replaced or repaired or there is evidence of the need for an immediate health or safety improvement. Applicants must demonstrate that there has been a good faith effort to keep the property up to Uniform Physical Condition Standards.

- Mixed-Income Housing – The Agency may award up to two (2) points for developments which incorporate market rate units as part of the unit mix **with a demonstrated financial benefit to the development**. In order to qualify for points, at a minimum fifteen percentage (15%) of the units shall be targeted as market rate units.
- Transit-Oriented Design – The Agency may award up to two (2) points to developments located within one-half mile of a completed or planned public transportation fixed route stop.
- Walkability – The Agency may award up to two (2) points for developments which have the following walk scores according to “ [www.walkscore.com](http://www.walkscore.com) ”(for scattered site projects, a walk score will be obtained for each site and a weighted average based upon number of units at each site will be calculated):

<u>Urban</u>		<u>Suburban/Rural</u>	
<u>Percentage</u>	<u>Points</u>	<u>Percentage</u>	<u>Points</u>
≥80	2	≥70	2
≥70-79	1	≥50-69	1

- Site – The Agency may award up to three (3) points to developments based upon site suitability for the proposed use. Site suitability will be based on the following features,: unit size mix, including number of efficiency units; neighborhood amenities; access to site; appropriateness of site for targeted tenant population; availability of sufficient parking; location relative to flood plain; neighborhood nuisances; condition of neighborhood; building on agricultural land; if scattered site, overall impact on the neighborhood; completed project’s improvement to or impact on the neighborhood.

## **B. Development Characteristics**

*25 points*

The Agency may award up to twenty-five (25) points for the provision the following development amenities.

- Smart Site Selection – points may be awarded to the following types of properties:
  - up to five (5) points may be awarded to those developments located on a brownfield;
  - up to seven (7) points may be awarded to those developments considered residential infill; and
  - up to ten (10) points may be awarded to those developments consisting of an adaptive reuse of an existing building.
- Certification under a national Green Building Program.

Ten (10) points may be given to new construction and substantial rehabilitation developments achieving certification under one of the following green building standards:

- Enterprise Green Communities – 2015
- LEED v4 BD+C Homes & Multifamily Lowrise (1-3 stories) – Silver
- LEED v4 BD+C Multifamily Midrise (4-8 stories) – Silver
- LEED v4 BD+C New Construction & Major renovation (over 8 stories) – Silver
- ICC/ASHRAE 700 National Green Building Standard - Silver

Ten (10) points may be given to preservation developments achieving certification under

one of the following green building standards:

- Enterprise Green Communities – 2015 – Moderate Rehab
- LEED v4 O+M – Multifamily - Certified
- ICC/ASHRAE 700 National Green Building Standard – Silver
  - Under Section 305.3 – Whole Building Rating – Bronze
  - Under Section 305.4 – Functional Areas Rating – Compliant with Chapter 12 (must include kitchens and bathrooms)
- Energy Efficiency Goals –
  - Reduced HERS Index – five (5) points may be awarded to those developments that exceed the requirements of Energy Star® Version 3.0 by achieving a lower HERS Index as specified in the Guidelines. (Points in this category are not available if seeking points for Passive House.)
  - Passive House – ten (10) points may be awarded to those developments which meet Passive House Requirements (nationally or internationally) for energy efficiency. (See Multifamily Housing Application and Guidelines and [www.passivehouse.us](http://www.passivehouse.us) or [www.passivehouseacademy.com](http://www.passivehouseacademy.com) for additional guidance.)

Please review the 2019 Guidelines for specific requirements for the above criteria.

The Agency will review the architectural documents submitted with the proposal to confirm the existence of the proposed amenities. A certification from the design architect verifying the inclusion of the amenities in the development must be submitted with the Application. Confirmation from the construction contract administration architect is required with the submission of the cost certification documents. Amenities should be appropriate for the proposed resident population. The appropriateness and adequacy of the proposed amenities for ranking purposes will be determined at the sole discretion of the Agency. Verification of the availability of all amenities may be required by the Agency at any time and throughout the development's compliance period.

### C. Resident Population and Services

*55 points*

1. Income and Rent Targeting – The Applicants may be awarded up to twenty (20) points for developments that are designed to be substantially occupied by and affordable to residents with incomes that are at or below 50 percent of the area median income. Points will be considered for the following percentages of units affordable to and occupied by residents whose incomes are at or below 50 percent of area median income:

<u>Percentage</u>	<u>Points</u>
>10-20%	4
>20-30%	8
>30-40%	12
>40-50%	16
>50%	20

2. Designated Populations & Supportive Services – To receive points in this category, the development will provide evidence that appropriate services will be provided for the entire resident population for the duration of the compliance period. Evidence consists of a supportive services plan that:
  - Is specific to the development and effectively addresses the anticipated service needs of the target resident population.

General occupancy developments should deliver or coordinate services that: improve building and unit maintenance; stabilize occupancy by improving residents' ability to uphold their lease obligations; and enhance quality of life through increased self-sufficiency and programs that improve life skills, employment, education, income/asset building, child and youth development, community building, and access to services.

Senior occupancy developments should deliver or coordinate services that: stabilize occupancy by improving residents' ability to uphold their lease obligations throughout the aging process and enhance quality of life through improved access to services and benefits, health promotion, community building, and socialization.

Developments for populations with special needs should deliver or coordinate services that stabilize occupancy by improving residents' ability to uphold their lease obligations and enhance quality of life through improved access to services that support the needs of the targeted population.

- Includes sufficient funds to implement the described plan of services. It is recommended that this funding be set aside in a supportive services escrow account. However, funding through the development's annual operating budget, collaboration with a community-based service provider (include letter of intent or Memorandum of Understanding) or funds from other identified sources may be used. If currently committed funds fall short of the cost of services for at least the first fifteen year period, identify how services will be funded for the remainder of the compliance period.
- Utilizes a service provider/coordinator with the capacity to implement described plan of services. The recommended minimum is one hour of on-site dedicated staffing per week for every five units. Services staff should have access to a computer with Internet and email capabilities. There should be sufficient space to carry out the described services, including adequate office and community space.

Satisfactory completion of the above three factors are the minimum requirements for 5 points. Demonstrated commitment of sufficient funds for at least 15 years and meeting or exceeding the recommended minimum on-site staffing may result in an additional 5 points.

Confirmation from the service provider regarding the availability of applicable services at initial occupancy of the development will be required prior to issuing the IRS Form 8609. To ensure the continued provision of supportive services, the Restrictive Covenant Agreement will reflect such commitment.

3. Accessible Units – Consideration may be given to developments where the developer agrees to provide twice as many fully accessible units as are otherwise required (under local, state, or federal mandate, whichever is greater) in the development. All employee units and market rate units must be included in the total unit count when calculating the required number of accessible units. The developer must certify that these units are accessible and that, during initial lease up, the developer will exclusively reserve the units for occupancy by persons needing the accessible units for the first thirty days. Thereafter, the developer will include certain provisions in the lease to allow the units to be occupied by persons who need the accessible features of the units, to the greatest extent feasible. Evidence of enforcement of the lease provisions will be required and implementation and adherence to additional outreach programs to identify and match qualified residents who need the accessible features within the development may be required throughout the compliance period which may include contacting the Agency prior to renting the unit to persons who do not require the accessible features in accordance with the Agency's Accessible Unit Policy.

Terms addressing the accessible units and the subsequent rental of these units will be incorporated in the Restrictive Covenant Agreement. In addition, a certification from the design architect verifying the inclusion of the accessible units in the development will be required at the

time of application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents. For preservation developments, consideration will be given for points under this category if the development increases the number of fully accessible units which meet current standards in the development by at least 5 percent of the total units available. If an existing development already has twice the federal minimum number of accessible units that meet current accessibility standards, they will be eligible to receive points in this category. (All other requirements applicable to rental and long term occupancy of these units are the same.) (Ten (10) points)

4. Large Families – Up to ten (10) points may be awarded for those developments providing units with three or more bedrooms for large families. High rise developments and senior housing cannot qualify for this category. Points will be considered for developments that include the following percentages of units with three or more bedrooms:

<u>Urban</u>		<u>Suburban/Rural</u>	
<u>Percentage</u>	<u>Points</u>	<u>Percentage</u>	<u>Points</u>
>15-20%	6	>10-15%	6
>20-25%	8	>15-20%	8
>25%	10	>20%	10

A certification from the design architect verifying the number of large family units in the development will be required at the time of application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents. For developments not requiring the services of an architect, the certifications may be provided by the general contractor.

5. Section 811 Participation – Up to five (5) points may be awarded to those developments with applicants and/or management agents that agree to include Section 811 units designated for persons with disabilities ages 18-61 in existing properties or those under development which received a previous award of Tax Credits. Consideration will be given if an applicant enters into an Agreement to Enter into a Rental Assistance Contract or a Rental Assistance Contract for eligible Section 811 properties on or before December 27, 2018. For consideration as a management agent, entities must have/or will have experience in the Section 811 program, satisfactory to the Agency, by December 27, 2017.

<u>Urban (including Allegheny County)</u>		<u>Suburban/Rural</u>	
<u>Units</u>	<u>Points</u>	<u>Units</u>	<u>Points</u>
>10-20%	3	>5-10%	3
>20-25%	5	>10-15%	5

**D. Development Team and Process**

*50 points*

1. Noncompliance – The Agency may deduct up to ten (10) points from the score for proposals involving either an Applicant (or any related entity) that owns a managing or controlling interest in a Pennsylvania Tax Credit development or a management agent of such development **who is delinquent in payments or has materially defaulted on obligations to the Agency, has not met required submissions and program deadlines**, has unresolved IRS Form 8823 noncompliance issues, has not met the requirements of the Restrictive Covenant Agreement, has failed to submit a timely Placed-in-Service/Cost Certification package which resulted in a loss of Tax Credits to the Agency, early termination of a Tax Credit project or failed to meet the selection criteria for which an allocation of Tax Credits was made.
  
2. Development Team – The Agency may award up to twenty (20) points for the experience of the development team in creating the type and size of the property. The development team members include the applicant, architect, general contractor, attorney, and management agent.
  - a. Experience of applicant (or any related entity) – This category measures the experience of the applicant in the production of Tax Credit developments. The Agency will consider for points in this category the number of Tax Credit developments (of at least 10 units) which have been placed in service and have been issued an IRS Form 8609. If an applicant has experience in developing 3 or more developments of under 10 units, up to 2 points may be awarded for experience. (Lack of experience of the applicant may be supplemented by the inclusion of an experienced housing consultant on the development team.)

Number of Developments	Points
1-4	2
5-10	4
11-15	6
Over 15	8

(or)

Experienced housing consultant (consulted in 3 or more developments that received a reservation of Tax Credits and have been issued an IRS Form 8609) in lieu of an experienced general partner – 2 points

Note: If there are two or more applicants, the experience of applicants will be considered and prorated based upon the percent of ownership.

b. Experience of management agent with Tax Credit developments – In order to be considered in this category, a management agent must currently manage at least three Tax Credit developments. Management of developments with project based or public housing rental assistance may qualify as experience, provided that the management agent has experience with at least one Tax Credit development.

Number of Units	Points
25-150	2
151-300	4
301-450	6
Over 450	8

(or)

- Experienced housing management consultant (involved in 3 or more developments that received a reservation of Tax Credits) in lieu of an experienced management agent – 2 points
- c. Experience of attorney in the Tax Credit program – 2 points
- d. Experience of general contractor in type and size of development to be developed – 2 points
- e. Experience of architect in type and size of development to be developed – 2 points (1 point for design architect and 1 point for construction contract administration architect)

3. Development Team – Material Participation of Minority, Women’s and Veteran’s Businesses –

The Agency may award up to ten (10) points for material participation in the development team by a minority-owned business, woman-owned business, veteran-owned business or service-disabled veteran-owned business which meets eligibility criteria of the Small Diverse Business Program (“SBD”) operated by the Department of General Services. A non-profit entity is eligible to receive points as an Owner/Developer or Management Agent if a minimum of fifty-one percent (51%) of the members of their board are minorities, women or veterans as evidenced by the non-profit’s organizational documents. Furthermore, the Agency encourages business opportunities for new or underutilized small diverse businesses in the development team.

<u>Firm/Entity</u>	<u>1%-4.99% of Total Development Cost</u>	<u>≥5% of Total Development Cost</u>
Professional Services	1 point	2 points
General Contractor	1 point	2 points
Sub-Contractors/Vendors	1 point	2 points

  

<u>Firm/Entity</u>	<u>Points for Participation</u>
Owner/Developer	3 points
Management Agent - (Minimum 2 year contract)	3 points

- 4. Zoning - Up to five (5) points will be available for developments which demonstrate that current zoning is in place to allow for the proposed construction or rehabilitation on all sites included in the Application, to the satisfaction of the Agency.
- 5. Commitment of Funds (Up to fifteen (15) points) – The developer must provide evidence, satisfactory to the Agency, that all funding commitments from public and private lenders have been secured. A minimum level of funding as determined by the Agency based upon availability in both Participating Jurisdictions and Non-Participating Jurisdictions will be required for consideration in this category. Evidence of said commitments shall include a firm commitment of funding and shall set forth the terms and conditions of said funding. Points will be awarded as follows:

- Inclusion of Private Capital and Soft Debt Funds – The Agency may award up to eight (8) points for the inclusion of permanent amortizing debt and soft financing which may include financing from state or local programs, nonprofit organizations, private capital, and permanent funding from foundations and/or federal programs. This category includes equity from historic tax credits and land and/or building donation (subject to verification by a current appraisal). This category does not include a PennHOMES or PHARE Program request that has not been approved. Applications with a donation or a reduction in development-related fees (i.e., tap-in, impact, recreational and/or other development rights by the local government unit/municipality) may also be included. The reduction must be measurable and based upon an existing fee schedule that applies to all developments.

Comparison will be made between total qualifying soft financing and total development costs, with possible points granted as follows:

<b>Participating Jurisdiction Percentage</b>	<b>Nonparticipating Jurisdiction Percentage</b>	<b>Points</b>
5-10%	2-5%	2
>10-20%	>5-10%	4
>20-30%	>10-20%	6
>30%	>20%	8

- Inclusion of Assumed Debt on Preservation or Related Party Financing – The Agency may award up to two (2) points for the existing debt on preservation projects or substantial rehabilitation projects as follows:

<b>Percentage</b>	<b>Points</b>
≥10-30%	1
>30%	2

- Inclusion of Funding Applied For and To Be Applied For – In accordance with the Code, all applications must identify all sources of funding (including those to which the Applicant expects to apply). The Agency may award up to two (2) points for identified funding listed as applied for or to be applied for. To be considered for points in this category, the amount may not exceed twenty-five percent (25%) of developer fee and Applicant must provide evidence of the commitment to reinvest developer fee in an amount equal to the amount of the identified funding. The Agency will use this funding as a source in determining the Tax Credit award.

<b>Percentage</b>	<b>Points</b>
≥15%	1
>25	2

- Inclusion of Project Based Unit Subsidy – The Agency may award up to two (2) points for the inclusion of Project Based Section 8 assistance or ACC subsidy for at least fifty percent (50%) of the units in the development.
- Evidence of Tax Abatement – The Agency may award up to one (1) point for developments that provide evidence of receipt of a real estate tax abatement from the municipal taxing authority.

**E. Development Cost Savings**

*10 points*

The Agency may award up to ten (10) points to Applications which demonstrate costs less than the median total development costs of the total Applications submitted. The Agency will determine the median total development cost per square foot (less the cost of acquisition, reserves and commercial space) and will award points based on certain ranges as stated below. Preservation Applications and those located in Philadelphia will not be included when determining the median costs in a cycle. The Agency will award points to Preservation and Philadelphia Applications as they compare against each other. For all other developments, the Agency will award points based upon the construction type: single family/townhouse, multi-story multifamily buildings, and adaptive re-use buildings as they compare against each other. In addition to submission of certifications that the building as designed and as constructed will meet/meets all labor and material standards set forth in applicable local or statewide codes (without sacrificing unit size and other building amenities), the Agency reserves the right to require additional certifications from local officials or building design professionals prior to the issuance of an IRS Form 8609 for the building or to conduct its own site visits during construction to ensure that the quality of construction is not compromised by cost savings.

<b>Percentage Below Median Total Development Cost</b>	<b><u>Points</u></b>
At least 10%	5
≥15%	10

**F. Other**

*5 points*

Complete Application Package – The Agency may award 5 bonus points for Applications that are submitted with all required Application exhibits and information as delineated in the Application Checklist and the Application Guidelines.

**Total Points Available**

*175 points*