



GEORGE V. VOINOVICH  
GOVERNOR

STATE OF OHIO  
**OFFICE OF THE GOVERNOR**  
COLUMBUS 43266-0601

Affordable housing for all Ohioans is one of my administration's highest priorities. Ohio's Low-Income Housing Tax Credit program has made significant contributions in reaching that priority. Since the program's inception in 1987, OHFA has utilized the Low-Income Housing Tax Credit program to produce more than 30,000 units of affordable rental housing. Permanent extension of the Low-Income Housing Tax Credit program has guaranteed Ohio's ability to meet the challenge of providing decent, affordable housing for Ohioans of modest incomes.

I have designated the Ohio Housing Finance Agency to administer the Low-Income Housing Tax Credit Program for Ohio. As such, they will administer Ohio's annual allocation of Low-Income Housing Tax Credits according to the Internal Revenue Service Code and the priorities established in this Plan.

The 1994 Low-Income Housing Tax Credit Allocation Plan provides the applicant with information needed to complete the application and successfully compete for the limited amount of Low-Income Housing Tax Credits available to Ohio. The success of Ohio's program demonstrates the potential of the Low-Income Housing Tax Credit as a financial incentive for production and preservation of affordable rental housing. By working with public and private investors who share our commitment, we can help assure that all Ohioans have the opportunity for decent and affordable housing.

Sincerely,

A handwritten signature in black ink that reads "George V. Voinovich".

George V. Voinovich  
Governor





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## **I. GENERAL PROGRAM INFORMATION**

### **A. Introduction**

The Low-Income Housing Tax Credit (LIHTC) program is designed to increase the supply of quality affordable rental housing throughout the country. These credits give the private housing development community the incentives to provide low-income housing by offsetting construction or substantial rehabilitation costs. Low-income families and the private housing development community in Ohio and throughout the United States have greatly benefitted from the LIHTC program, and since the LIHTC program was permanently extended in August, 1993, these persons will continue to benefit from these credits for many years to come. Throughout the program's history, OHFA has used the credit to facilitate the development of approximately 30,000 low-income rental housing units in Ohio. About 7,000 units are produced each year.

Governor Voinovich has designated the Ohio Housing Finance Agency (OHFA) (the "Agency"), to administer the LIHTC program in Ohio.

The Internal Revenue Service (IRS) guidelines for the LIHTC program can be found under Section 42 of the Internal Revenue Code (IRC). Applicants should be familiar with Section 42 of the IRC, regulations and administrative documents (revenue rulings, revenue notices), and all relevant material published by the IRS.

This Plan contains information about the use and purpose of the Low-Income Housing Tax Credit program. The Agency has also included information on the State of Ohio's priorities to meet the housing needs of low-income individuals and families as well as how the Agency will evaluate each Low-Income Housing Tax Credit Application.

OHFA had assistance in the development of the Plan from the Low-Income Housing Tax Credit Advisory group and citizen input during the public hearing process. The Governor and OHFA's Board approves the LIHTC Allocation Plan.

### **B. What is the Low-Income Housing Tax Credit**

The Low-Income Housing Tax Credit was created in 1986. It is the largest production and incentive program funded by the Federal government for the creation of affordable rental housing. The Tax Credit replaces earlier federal tax incentives for the development of low-income rental housing.

Low-Income Housing Tax Credits are used to offset an individual's or corporation's federal tax liability. The amount of tax credits received can be subtracted on a dollar-for-dollar basis from the federal tax liability.

The credit is received each year for ten years, the period the taxpayer claims the credit on their federal income tax return. The owner must maintain the low-income use continuously for 15 years; this is the compliance period. Additionally, the owner must enter into an extended use period of an additional 15 years by filing a restrictive covenant on the project with the county recorder. The extended use period may be reduced as provided for in the IRS Code. Applicants may receive extra points during competitive review if they will keep the low-income units affordable longer than the minimum 15 year compliance period.

The taxpayer may claim the credit beginning with the taxable year in which the building is placed in service or, at the owner's election, the following year. The allocated credit amount taken by the taxpayer is based on the portion of the building occupied by low-income tenants (the qualified basis) at the end of the first year of the credit period.

LIHTCs can be claimed for low-income units added to the project after the start of the ten year credit period, but the annual credit percentage will be reduced by one third.

### **C. Housing Needs and Priorities**

The State of Ohio through the Ohio Department of Development evaluates housing needs of the state and identifies actions to alleviate these needs. This research is jointly conducted by the Ohio Housing Finance Agency and the Community Development Division.

The State of Ohio has recently completed its five year Comprehensive Housing Affordability Strategy (CHAS) which outlines Ohio's housing need and investment activities for the Federal Fiscal Years 1994-1998. This CHAS is required in order to comply with the National Affordable Housing Act of 1990, as amended. Thirty-seven local governments in Ohio have also completed 1994-1998 CHASs. Tax credit applications must be consistent with the needs and priorities in all applicable CHASs.

Critical needs identified in the CHAS for the State of Ohio include:

- 1) Affordable rental housing units for low-income households;
- 2) Preservation and improvement of existing private and public affordable housing units;
- 3) Affordable housing for families needing three or more bedrooms;
- 4) Permanent affordable housing for homeless families or single-room occupancy housing (SRO) for homeless individuals;
- 5) Housing for persons with mental disabilities;
- 6) Housing that is accessible and affordable to persons with special needs;

including persons that are physically or mentally challenged;

- 7) Affordable housing for the elderly, which includes support services.

In addition, the CHAS identifies a need for preserving housing in urban areas, constructing new housing in rural areas, especially for persons with special needs, and also creating housing at locations which will provide greater housing choices for low-income families outside areas of minority concentration.

The Ohio Housing Finance Agency was established to create and preserve opportunities for safe and sanitary housing and to improve the economic welfare of the state. Fair housing is implicit to the Agency's purpose. OHFA supports all state and federal fair housing laws. OHFA seeks to expand housing opportunities for people who are unable to secure decent, affordable housing in the private marketplace. OHFA's policy on fair housing has three aspects.

Non-Discrimination. OHFA will assure that its programs are available on a non-discriminatory basis. OHFA will allocate funds and its agents will make assistance available without discrimination on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, physical or mental disability or familial status.

Affirmative Marketing. OHFA will affirmatively market its programs in order to assure that all eligible persons, including racial and ethnic minorities and people with special needs have the opportunity to participate in its programs. The purpose of affirmative marketing is to remedy the accumulated effects of discrimination which have limited housing opportunity for minorities and people with special housing needs. It is accomplished through outreach, information and promotional activities which are targeted to affected groups.

Reducing Segregation. OHFA has determined that racial segregation may have a bearing on the availability of decent housing and economic opportunity. Furthermore, OHFA concludes that there is a positive relationship between racial integration in housing and the Agency's purpose to provide safe and sanitary housing and to improve the economic welfare for Ohioans. Therefore, OHFA will endorse activities which reduce the racial concentration and expand housing choices for all Ohioans.

#### **D. Eligible Use of the Credit**

The LIHTC can be used to offset the cost of acquiring, substantially rehabilitating or constructing residential rental housing that is occupied by low-income individuals and families. These units must be available to the general public and have an initial lease of six months or longer.

The eligible costs to develop these low-income units become the building's eligible basis. The eligible basis cannot include the cost of land. The credit can be allocated on common areas as long as these facilities are provided to all tenants without additional fees or charges. The percentage of units developed for occupancy by low-income residents is the building's qualified basis. The applicable tax credit percentage (commonly referred to as the 9% and 4% credit) is the percentage used to find the annual tax credit amount by multiplying it by the total qualified basis. (See Applicable Tax Credit Percentage in the Glossary.)

**Acquisition/Substantial Rehabilitation.** Credit is available for the acquisition and substantial rehabilitation of a building. The acquisition basis is allocated credit at the 4% credit rate. The substantial rehabilitation basis is allocated credit at the 9% credit rate. The acquisition basis does not include the cost of land and the property cannot have been placed in service within ten (10) years prior to acquisition. In addition, capital improvements on the building are not allowed if within the previous ten years major capital improvements have been made to the building. The building may not have been owned by the new owner or a related entity. Ten percent of the ownership may remain unchanged.

**Substantial Rehabilitation.** Credit may be claimed on the basis of cost incurred for the substantial rehabilitation of a property without claiming credit on the acquisition basis of the project. Rehabilitation expenditures must substantially benefit the low-income tenants. The minimum expenditure is \$3,000 per unit or 10% of the adjusted basis of the building. Expenditures of a cosmetic nature qualify only when ancillary to and an integral part of expenditures which improve the habitability of the low-income units.

**New Construction.** A tax credit of 9% is available for the cost to newly construct a building.

**Single Room Occupancy (SRO).** SRO housing may qualify for tax credits even though cooking and sanitation facilities are provided on a shared basis rather than separately within each unit. SRO units may be leased on a monthly basis without violating the non-transient use requirement (minimum six month lease) of the IRS code. Factory made housing which is permanently fixed to real property may qualify for the credit.

**Non-Qualified Project Types.** The credit is not available for any of the following facilities: Hospitals, nursing homes, sanitariums, lifecare facilities, retirement homes (providing significant services other than housing), mobile homes and student housing. Congregate care facilities may be eligible if the "additional supportive services" are provided to the tenant as a voluntary option and the tenant is not charged mandatory fees for those services. Certain non-qualified projects may be eligible for the credit. OHFA will continue to work with sponsors of non-qualified project types to determine if credit can be used. Please refer to Section 42 of the IRC for more information.



Income Targeting. A project qualifies for LIHTCs if at least 20% of the project is occupied by households with incomes at or below 50% of the Area Median Gross Income (AMGI) or at least 40% of the project is occupied by households with incomes at or below 60% of the Area Median Gross Income. AMGI limits are published by HUD annually. The income limitation applies for a minimum period of 15 years, or if the owner has elected the extended use option, the income restriction applies through the extended use period.

A tenant's income may rise over time. Owners cannot evict a tenant if their income rises. However, that unit may no longer be considered "low-income". The IRS has developed specific rules for owners to follow in these circumstances. Please refer to Section 42 of the IRC for more information.

Rent Restriction on Units. The gross rent paid by tenants in low-income units may not exceed 30% of the qualifying income standard applicable to the project; 50% or 60% of the AMGI, adjusted for family size. The rent restriction is based on the number of bedrooms in the unit. The income limitation is based upon one person per unit without a bedroom (an efficiency apartment) and 1.5 persons per bedroom in the case of a unit which has one or more bedrooms. Rent subsidies paid on behalf of the tenant (such as Section 8 program payments) are not included in gross rent calculations. Gross rent includes a utility allowance for the utilities paid by the tenant. OHFA has provided the rent and income limitations by county in Section IX., Reference Materials. Please refer to this table when calculating project rents.

Utility allowance information is obtained from HUD in the county where the project is located, however, if the project is financed through the Farmers Home Administration 515 Program, the utility allowance is obtained from the FHA office.

#### **E. Fees and General Information**

OHFA requires an application fee at the time of submission of the application. This fee ranges from \$100 to \$500, depending on project size. The Agency also requires a reservation fee within three (3) weeks after receiving a conditional tax credit reservation. The reservation fee is equal to 4% of the annual tax credit amount listed on the Conditional Reservation Certificate. Both fees are non-refundable and non-transferable.

Project owner(s) and sponsor(s) are required to provide the Agency with opportunity for public notification of the Agency's participation in a project. Please coordinate this with Agency personnel as soon as possible.

#### **F. Appeals Process**

The Agency has developed an appeals process for projects not chosen during the "Threshold" and "Competitive Review" stages, and for those who did not receive the amount of credit

they felt they were entitled to on their reservation, carryover, or 8609 tax form. If the applicant feels OHFA has erred in its determination, the applicant may file an appeal. The applicant must submit their appeal in writing to the Director of the Office of Planning & Development, OHFA, 77 South High Street, 26 Floor, Columbus, Ohio 43266-0101. **THE APPEAL MUST BE RECEIVED WITHIN 15 WORKING DAYS FROM THE DATE OF THE NOTIFICATION OF REJECTION LETTER OR CONDITIONAL RESERVATION CERTIFICATE, ETC., AS APPLICABLE.** In the appeal, the applicant must state their objections to the Agency's determinations and give specific reasons why they felt the project was judged unfairly. As for threshold and competitive appeals, any documentation to support the appeal can be included, but will not override the documentation or materials which were included in the original application.

Upon receipt of the appeal letter, the Agency will review and respond in writing to the sponsor within 15 working days from receipt of said appeal. The appeal will be granted only if the applicant can document that the Agency has erred in its review of the project application or in determining the credit amount. **NOTE: A THRESHOLD OR COMPETITIVE APPEAL IS JUDGED UPON THE MATERIALS WHICH WERE PROPERLY AND TIMELY SUBMITTED WITH THE ORIGINAL APPLICATION.**

If an appeal is granted, the project will be reprocessed to determine whether it should receive a conditional reservation of tax credits or increased credits (as applicable). If the appeal is not granted, no further review will be conducted, and the sponsor must re-apply in the next credit round for consideration.

OHFA has also established a policy for those appeals that come in at the end of the year but can't be resolved until after December 31. If such an appeal is granted favorable consideration, then that project will automatically be given a reservation of credits for the new tax credit year without having to go through competitive review once again. The applicant, however, must provide evidence that they still meet all threshold requirements. OHFA also reserves the right to require a new application.

## **G. Energy Efficiency**

The Ohio Board of Building Standards (OBBS) is responsible for formulating and adopting rules and standards (codes) concerning energy conservation in buildings. There are two codes referred to in the Ohio Basic Building Code (OBBC). The CABO Model Energy Code (MEC), which applies to one- and two-family and multifamily buildings three stories or less above grade, and Article 31 of the OBBC which applies to those buildings not covered by the CABO MEC. Article 31 also lists the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) 90A or 90B standards that must be met when applicable.

Enforcement of the energy codes for buildings greater than three units, or greater than three stories rests with the OBBS Division of Factory and Building Inspection. Enforcement of the codes for buildings with three units or less and three stories or less rests with certified

building departments assigned by the OBBS, or with OBBS where no certified building department exists. Enforcement includes reviewing and certifying plans and on-site inspections.

After October 1, 1994, the applicable energy codes will be updated and the 1992 version of the CABO MEC (and any subsequent edition) and the 90.1 version of ASHRAE will be enforced.

## II. APPLICATION PROCESS

You must submit a request for 1994 LIHTCs using Ohio's 1994 LIHTC Application. Please refer to the Application Package Section of the Plan. If your Plan does not have an application package, please contact OHFA at 614-466-0400 to request one.

### A. When to Apply

Applications may be submitted to the Agency in any of the five LIHTC application review periods (called "application rounds"). Application rounds are as follows:

<u>ROUND</u>	<u>SUBMISSION WINDOW</u> <u>Open/Close</u>	<u>OHFA'S DEADLINE FOR</u> <u>CONDITIONAL RESERVATION</u>
Round 1	April 1/29	May 31
Round 2	May 2/31	June 30
Round 3	June 1/30	July 29
Round 4	July 1/29	August 31
Round 5	August 1/31	September 30

Applications will be accepted beginning on the first working day of the month in which the application round period begins. Applications will be accepted no later than 12:00 p.m. (noon) of the last working day of that same month.

### B. How to Apply

Each applicant will complete the 1994 LIHTC application, which is in Part VI of this Plan. Detailed instructions are included with the application. An application is complete when all the necessary information is presented. For first time users and other interested parties, OHFA will sponsor three workshops that provide instruction and assistance in preparing a LIHTC application. Contact the Agency at 614-466-0400 for information on the workshops.

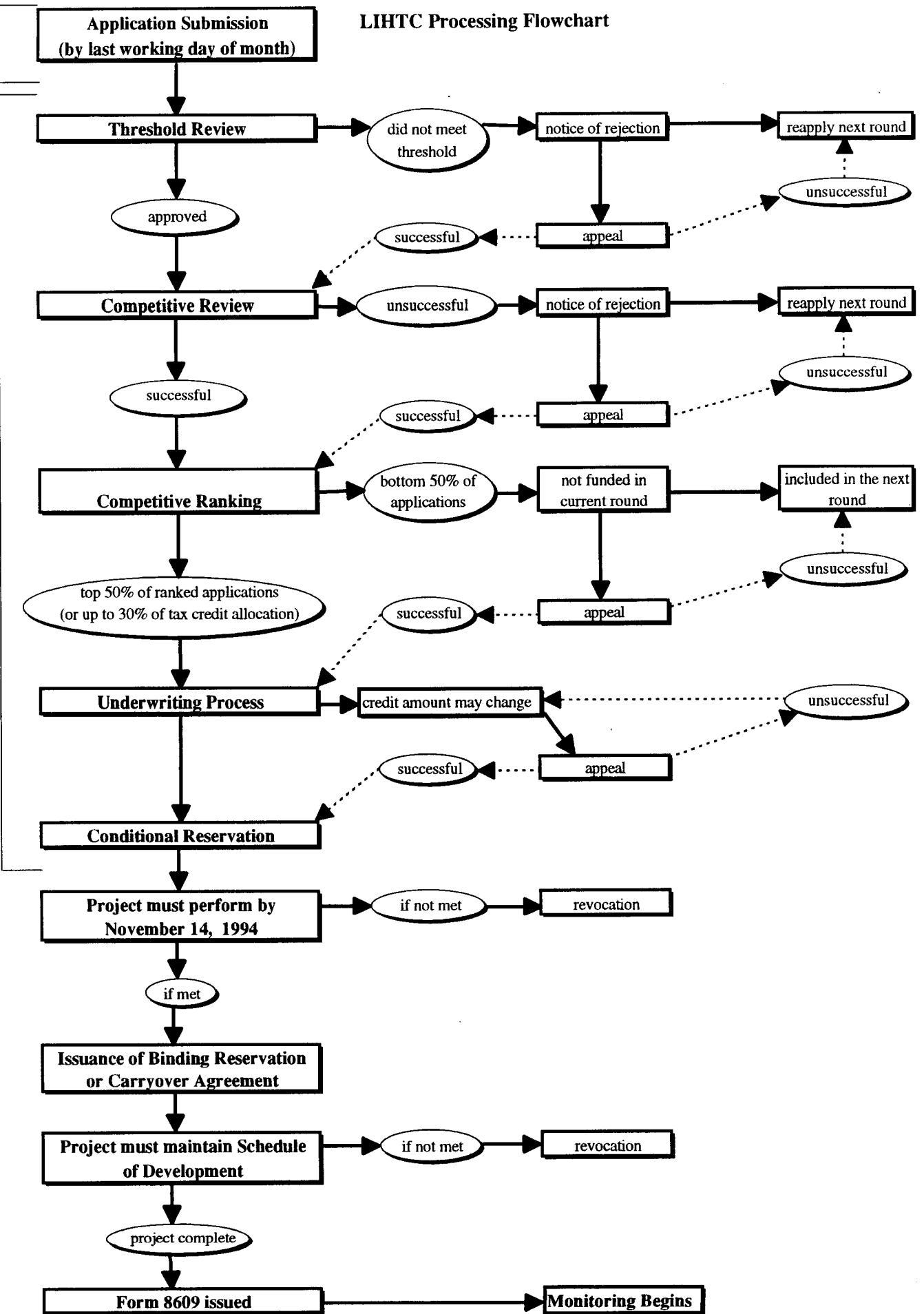
After the Agency receives the application, the LIHTC staff will evaluate the application to ensure compliance with the threshold criteria. Once an application passes threshold review, it will be evaluated using the competitive criteria. See LIHTC Processing Flowchart, next page.

**It is the responsibility of the applicant to notify the Agency of any changes in the following information after submission to OHFA. The Agency must approve all changes. The Agency reserves the right to require a new application and fee for changes made to the application. Failure to inform OHFA of any changes in the applicant's situation at any time may cause the application to be rejected, or the tax credits to be revoked. Any changes in developer, general partner, site, major financing sources and increase or decrease in costs of more than 15% from the original application estimate and/or**

# LIHTC Processing Flowchart

one month  
open window  
for submission

one month  
review period



**increase in credits by more than 10% from the original reservation will require a new application fee and will be competitively reviewed again. An owner may not apply for more credit for the same project in another year unless more square footage or more units are produced.**

### **C. Threshold Review**

In order to assure that all applications received will score well in competitive review and have a high feasibility of completion, OHFA has established the following threshold criteria that must be met to qualify for the competitive review stage or the application will be rejected. Processing applications is essentially two separate functions - threshold review and competitive review. Threshold review is a basic review of the application to determine if it is complete, and all necessary forms and fees are included.

OHFA restricts any user to \$1 million in annual tax credit. This restriction will apply whether the user owns one or more projects or is involved as a general partner in one or more projects.

1. The project must be a qualified residential rental project which meets occupancy and rent restrictions of Section 42 of the Internal Revenue Code of 1986, as amended. Therefore at least 20% of the units must be reserved for tenants at 50% or less of Area Median Gross Income (AMGI), or at least 40% of the units must be reserved for tenants at 60% or less of AMGI, adjusted for family size. Rent restrictions will be determined by the number of bedrooms per unit rather than actual family size. This restriction must be maintained for at least the 15 year compliance period and that period committed to in the extended use agreement. The Agency requires that for those individuals who are submitting substantial rehabilitation projects, the \$3,000 per unit or 10% of total project cost must be met by qualified costs. Cosmetic improvements do not qualify for the \$3,000 threshold for substantial rehabilitation credits.

If displacement of any existing tenants will occur, the Agency will require the sponsor to prepare and implement a plan to reasonably assist any families or individuals displaced in obtaining a reasonable alternative. If federal funds are used, the applicant must prepare and implement a displacement plan that meets federal requirements.

2. A completed application with correct application fee - Any applications that are incomplete, inconsistent, and/or illegible, will be automatically rejected. Applications are to be submitted in a three-ring binder with appropriate tabbing.
3. A complete development team already in place consisting of:
  - sponsoring organization;

- general contractor.
- general partner (or owner);

The following are requested at time of application, but not required:

- manager/management company;
- architect;
- engineer;
- consultant (if applicable);
- tax attorney - due to the complexities of the LIHTC program, OHFA recommends that sponsoring organizations obtain a tax attorney and/or accountant early in the development process.

For project applications intending to include a non-profit organization, the non-profit must be identified or the application will be rejected. All applications must list two authorized contacts.

The organization applying for the credit allocation will be expected to have an ownership interest in the project, be at least a co-general partner, and have a contractual role in decision-making about project development and management.

4. Site Control evidenced by buyer and seller. The Agency requires the executed and recorded deed of the current owner. If the owner is not the applicant, copies of one of the following:

- option to purchase from the owner, with date certain performance;
- purchase contract with the owner;
- land contract with the owner;
- long term land lease (15 years or more);
- preferred developer status, as designated by a local government entity.

(Each of the site control documents above, as applicable, must extend minimally through the period of planned acquisition, as demonstrated by the Schedule of Development, Section Z. of the LIHTC Application.)

There is one exception to the site control requirement. For non-profit sponsored scattered site projects with 6 or more sites, the Agency will require that at least 10% of the sites be under control at time of application. The applicant must develop an acquisition plan for the remaining sites that is submitted with the application. The Agency must approve the acquisition plan or no credit reservation will be issued. Acquisition must occur **no later than November 14, 1994**. Continual progress must be made throughout the year to meet this pre-approved schedule or the tax credit reservation could be rescinded.

5. Demonstrated financial ability to proceed for special projects must be shown. The options to do so are:

- A. For Farmers Home Administration 515 projects, an AD622 commitment, along with a letter from the Farmers Home Administration attesting that they have received the sponsor's full application and are currently processing it, will be required. It is the intent of the Agency to reserve credits for those projects which will receive FmHA funding in the current federal fiscal year (ending September 30, 1994).
- B. For FHA insured projects, the sponsor must provide evidence they have acquired a conditional commitment. If the sponsor wishes to skip this conditional commitment stage of FHA processing, an exception may be allowed for those applicants who can show prior successful FHA experience. In addition, special consideration will be given to projects which are seeking transfer of physical assets from HUD.

#### **D. Competitive Review**

OHFA has developed the following allocation scoring system based on the identified housing needs for Ohio as well as federal mandates for the tax credit program. The top 50% (or up to 30% of the Agency's allocation authority, whichever is less) of all competitively reviewed projects submitted for each round will receive credits. Projects not selected may be held for up to one additional competitive round.

**If any of the rating characteristics for a project change at any time from the original application that significantly decrease the project's score, then a new application and fee may be required and the application will be re-submitted for another competitive review.**

Projects are awarded points based on the criteria listed below. The Competitive Criteria Worksheet (Section AA. of the LIHTC Application) provides more detail on how points are awarded.

#### **I. Project Characteristics - Maximum 82 points**

- a. Rent structure that will be affordable to persons below 60% of Area Median Gross Income (AMGI), adjusted for family size, as evidenced in the restrictive covenant. One point is awarded for each percentage below 60%. Points are then doubled.

In addition, the project sponsor may choose to set-aside a percentage of units



targeted to lower income households. If this option is selected, multiply the income-targeting percentage by the set-aside percentage. For example, if a project has 80% of the units targeted to households at 60% AMGI, and 20% of the units targeted to households at 50% AMGI, they will receive 4 points as follows:

- 1.)  $60\% \text{ AMGI} \times 80\% = 48\% \text{ AMGI}$        $50\% \text{ AMGI} \times 20\% = 10\% \text{ AMGI}$
- 2.)  $48\% \text{ AMGI} + 10\% \text{ AMGI} = 58\% \text{ AMGI}$        $58\% \text{ AMGI} \times 2 = 116\% \text{ AMGI}$

- b. Sponsor has committed in restrictive covenant to continued low-income use for the project for more than 15 years. (For sponsors proposing lease purchase projects that will sell at the end of 15 years, see the Restrictive Covenant.) One point is awarded for each year over 15. Points are then doubled.
- c. Projects which serve one or more of the following populations by setting aside at least 30% of the units for:
  - Large Low-income Families (3 bedroom or larger affordable to households at or below 40% of Area Median, adjusted for family size);
  - Persons with physical disabilities;
  - Persons with mental or developmental disabilities;
  - Frail or non-independent elderly requiring special support services (see special limitation on non-qualified project types, page 5);
  - Homeless individuals or families;

(For definitions of these special populations see the Glossary.)

-or-

Receive funding from one of the following:

- Ohio Department of Aging;
- Ohio Department of Human Services;
- Ohio Department of Mental Health;
- Ohio Department of Mental Retardation and Developmental Disabilities;

- Special needs funding from the Ohio Department of Development.

- d. Arrangements with a Public Housing Authority or city authority to accept referrals of tenants from the appropriate waiting lists. Written verification must be provided by the housing authority.

**2. Project Costs - Maximum 57 points**

- a. Average bedroom costs which are below HUD's 221(d)3 limits of the county in which the project is located.
- b. Square footage costs which are below \$60 per square foot.
- c. Operating costs that are below \$2,500 dollars per unit, less owner paid resident utilities.
- d. Adjusted Developer's fee below 15%. This calculation is performed in Section R., Number 7c of the LIHTC Application.
- e. Contractor's Profit below 6%. This calculation is performed in Section R., Number 8 of the LIHTC Application.
- f. Contractor's Overhead under 2%. This calculation is performed in Section R., Number 9 of the LIHTC Application.
- g. Soft costs below 30% of eligible basis.

**3. Participation of Other Organizations - Maximum 25 points**

Projects which involve financing from a local tax exempt organization or private sources.

- a. Participation from other organizations such as
  - local tax exempt organizations
  - municipal organizations
  - foundations/charitable organizations
  - financial institutions
  - other non-public organizations
- b. Percentage of below market financial participation from other organizations.

**4. Adjusted Net Equity - Maximum 20 points**

Net proceeds from syndication greater than \$.50 per dollar of tax credit allocated. This figure may fluctuate throughout the year based on market forces. Equity agreement submitted at Carryover is permitted a \$.05 variance from competitive review estimates.

**5. Determining Development Status - Maximum 14 points**

- a. To encourage applicants to come in more prepared for the development of their projects, points will be given for development activities completed at time of application as determined by review of the Schedule of Development, Section Z. of the LIHTC Application.
- b. Applicants who can complete all the necessary Carryover Conditions.

**6. Project Location - Maximum 12 points**

- a. Whether projects are located in qualified urban and rural census tracts as defined by Congress or projects located in Appalachian counties (see Part IX., Reference Materials).
- b. Whether projects are located in counties which historically have not received a per capita distribution of credits (see Part IX., Reference Materials).
- c. Whether the project involves the substantial rehabilitation of vacant units in MSA's or the construction of new units in non-MSA's (see the Glossary for the definitions of MSA and non-MSA).

**7. Sponsor Characteristics - Maximum 5 points**

- a. A positive track record of Development Team in the LIHTC program. The Developer(s) and General Partner(s) will be asked to list all LIHTC projects they have previously participated in whether approved, withdrawn or rejected (see Application Package Instructions).

**E. Financial Underwriting of the LIHTC Project.**

If a project is selected to receive a reservation/allocation of credits, OHFA will underwrite each project to ensure that the project receives only the amount of credit necessary to assure project feasibility and viability throughout the credit period. This includes tax exempt bond financed projects which are excluded from the state's credit allocation ceiling. The Agency is required to perform the credit evaluation three times:

- 1.) when the application is received/prior to issuing conditional reservation;

- 2.) at the earlier of binding reservation or carryover allocation; and,
- 3.) at the time the project is placed in service and requests IRS Form(s) 8609.

The Agency's reservation will not necessarily equal the amount of credit requested in the application. In addition, credits may be reduced at any underwriting stage.

All projects will be evaluated to determine actual credit amount on the basis of the following procedures and criteria. **The basis and credit amounts will be reduced for any cost element which exceeds Agency-established maximums. Please refer to the LIHTC Application.**

Whether or not you intend to apply for acquisition credits for either new construction or substantial rehabilitation, you must provide a copy of the appraisal. The appraisal must be performed by an Ohio licensed appraiser. If acquisition credit is sought, credits will be based on the lower of the appraised value or the purchase price.

The rents and the annual operating expenses are reviewed to make sure that they are reasonable, and the net operating income is determined. Please include your 15-year proforma with the application. Vacancy rates will be evaluated to determine if they reflect current market conditions.

The N.O.I. is then compared to the annual debt service payments to make sure there is a positive and adequate debt service coverage. The debt coverage ratio should be between 1.05 to 1.2. If the debt service coverage is too low, this questions the viability of the project. If too high, the tax credit award will be decreased to reflect a maximum 1.2 debt coverage.

Sources of financing are reviewed to determine that they are sufficient to cover costs. Any remaining gap in financing is evaluated to determine if other sources can be increased before the final credit can be determined. Financing is also reviewed to determine whether there are any low-interest federally subsidized loans or grants involved in the project that may reduce the eligible basis or credit percentage.

Based upon project costs and sources of financing, an adjusted eligible basis is determined which is then used to determine the qualified basis and the maximum allowable tax credit amount.

Project costs are reviewed to determine if they exceed maximum allowable OHFA limits. Fees include developer's fee, contractor's profit, and contractor's overhead. Project costs include average bedroom costs, square footage costs and soft costs.

The Agency will use the current month's applicable federal tax credit percentage at Reservation, Carryover and/or Placed-in-Service to calculate the value of the credit. The owner may elect to lock in the current month's applicable federal tax credit

percentage at Carryover or Placed-in-Service.

Net equity raised per tax credit dollar will be reviewed. Equity must be at or above \$.50. This refers to proceeds raised from syndication or sale of credits deliverable to the project. If the investment is less than \$.50, the tax credit amount is adjusted downward to reflect the \$.50 minimum. The minimum net proceeds established in this Plan may change during 1994 due to market factors.

For those projects receiving federal assistance through the Department of Housing and Urban Development (HUD), a subsidy layering review analysis may apply. A subsidy layering review policy is being developed by HUD. When the standard is published, OHFA may be required to perform certain additional review processes.

Projects may receive an allocation of credit based upon 130% of the qualified basis for new construction or substantial rehabilitation if the project is located in designated high cost areas of the state. High cost areas are defined as qualified census tracts and difficult development areas. The U.S. Department of Housing and Urban Development and the Ohio Housing Finance Agency have published a list of qualified areas for 130% basis. Qualified areas are listed in Part IX., Reference Materials.

### III. CARRYOVER STAGE

If the project passes the competitive review stage, the tax credit amount will be determined and a **Conditional Reservation** of tax credits will be issued. The following conditions are required for all projects:

- **All subordinate financing, including grants, must be binding at time of carryover. Binding means that the financing terms have been offered and accepted.**
- **The project owner must, at a minimum, acquire all property or have entered into a long term leasehold agreement and must meet the 10% expenditure requirement by November 14, 1994. Acquisition must be evidenced by a copy of a recorded deed.**

There may be additional conditions which appear on the reservation. Those conditions must also be met by **November 14, 1994**.

Projects that are not complete by the end of the year, but have purchased property and can certify that 10% of the project's costs have been expended by **November 14, 1994** will be given a **Carryover Allocation Agreement**. Owners must complete the Carryover Package (see Part VII) in order to receive the Carryover Allocation Agreement. A Carryover Allocation Agreement is considered to be binding and will give the applicant until December 31, 1996 to complete the project and place the units in service.

All requests for a Carryover Allocation or Conditional Reservation must include the current sources and uses statement, the 15-year development proforma and the 15-year operating proforma.

**Any changes in developer, general partner, site, major financing sources and increase or decrease in costs of more than 15% from the original application estimate and/or increase in credits by more than 10% from the original reservation will require a new application fee and will be competitively reviewed again. An owner may not apply for more credit for the same project in another year unless more square footage or more units are produced.**

#### IV. PROJECT COMPLETION STAGE

Upon project completion, the owner must notify the Agency of the placed in service date(s) of each building and submit: 1) occupancy permits, if applicable; 2) cost certification; 3) building breakdown of qualified basis; 4) a signed permanent loan commitment; 5) a signed syndication agreement, if applicable; 6) an as built appraisal; 7) a certified copy of the filed restrictive covenant; 8) the current sources and uses statement; 9) the 15-year development proforma; 10) the 15-year operating proforma. Upon receipt of these items, final determination of tax credit amount will be made and **8609 IRS tax forms** issued.

When a project receives an 8609 tax form or a Carryover Allocation Certificate, each building in the project will receive a Building Identification Number (BIN). Those buildings receiving an acquisition and substantial rehabilitation credit will receive one BIN for both credit types.

For a complete listing of all items that must be submitted to request each of the above mentioned tax credit allocation documents, see Part VIII - Form 8609 Request Package.

## V. MONITORING

### A. Introduction

All projects allocated credits by the Agency are monitored by the Agency through the fifteen (15) year or more compliance period. The Agency will follow IRS regulation 1.42-5 as adopted June 30, 1992. Monitoring is done on a random selection basis with advance notice. The Agency will monitor a project if a complaint(s) is received by the Agency regarding the project. The Agency will annually monitor no less than 33% of the projects allocated tax credits which have been placed-in-service and were issued IRS form 8609. Each project monitored will make available to the Agency tenant records for all years since the project was placed-in-service and leased to tenants. No less than 33% of the tenant files will be reviewed by Agency staff. The selection of tenant files is at random. No less than 15% of the units in the project will be physically inspected by Agency staff on a random selection basis.

The monitoring process determines if the project is complying with requirements of the Internal Revenue Code. All tenants must be income qualified, adjusted for family size, prior to moving into the unit. All units must be rent restricted as provided for in the IRS Code. All low-income use units allocated tax credits must be safe, decent and sanitary housing complying with local building, health, fire, and zoning codes.

Compliance with the requirements of the Code is the sole responsibility of the owner of the building for which the credit is allocated.

### B. Key Points of the Monitoring Process

1. Record keeping and records retention for each qualified low-income building must include:
  - a. Total number of residential units in the building.
  - b. Percentage of residential units in building that are low-income.
  - c. Rent charged on each residential unit.
  - d. Low-income unit vacancies in building and rental of next available unit.
  - e. Income certification of each low-income tenant.
  - f. Documentation supporting income certification.
  - g. Character and use of nonresidential portion of building.

Records for each building must be retained for a period of six



(6) years beyond the end of compliance period of the building.

## 2. Certification and Review Provisions

- a. Project meets 20/50 or 40/60 test as defined by the IRC.
- b. Annual income certification from low-income tenants and supporting documentation.
- c. Each unit in the project is rent restricted under IRC 42(g)(2).
- d. Units are used by the general public and on a non-transient basis.
- e. Each building is suitable for occupancy, taking into account local health, safety, and building codes.
- f. There has been no change in the eligible basis of any building in the project, or if changed, the nature of the change.
- g. All tenant facilities included in eligible basis are provided on a comparable basis without charge to all tenants of the building.
- h. If low-income units in the project become vacant during the year, reasonable attempts are made to rent the unit to tenants having a qualifying income and, while unit is vacant, no unit of comparable or smaller size is rented to tenants not having a qualifying income.
- i. If the income of the tenant increases above the limit allowed, the next available comparable or smaller unit available must be rented to a qualifying low-income tenant.
- k. Exceptions for certain buildings:
  1. Buildings financed by the Farmers Home Administration's Section 515 Program.
  2. Buildings of which 50% or more of the aggregate basis is financed with the proceeds of obligations, the interest on which is exempt from tax under section 103 of the tax code (ie. tax exempt bonds).

If exempt under 1 or 2, the owner of such building must certify to the Agency that the building complies with the requirements of Section 42. If the owner is unable to meet the reporting requirements as otherwise required by said programs, the owner must notify the Agency.

## 3. Frequency of Certification

- a. The owner(s) must annually certify the tenant's income.
- b. The Agency will require the owner to annually certify the project's compliance.
- c. More frequent certifications may be required if the Agency determines the project is out of compliance.
- d. When the compliance deficiencies are resolved, more frequent certification will revert to annual certification.

4. Examination Provisions

- a. The Agency has the right to perform an onsite review, at least through the end of the compliance period. Review frequency is at the discretion of the Agency. The review includes an internal and external inspection of any building in a project, as well as a review of records.

5. Notification of Non-Compliance

- a. Prompt written notice will be given to the owner if certification is not received by the Agency, or the Agency discovers through other means (audit, inspection, or some other manner) that the project is not in compliance.
- b. The correction period is not to exceed ninety (90) days.
- c. The Agency may extend the correction period up to six (6) months provided the Agency determines there is good cause for granting the extension.
- d. Notice will be provided to the IRS no later than 45 days after the end of the correction period. IRS notification is required even if the noncompliance or failure to certify is corrected.

6. Fees

- a. Monitoring fees are under consideration by the Agency and may be assessed at a later date.

7. Mailing Address and Phone Number of Owner

- a. If the Agency is unable to serve notice on the property owner by mail and/or telephone during the compliance period and credit period as defined by the IRS, the Agency will consider the property out of compliance and notify the IRS by filing form 8823.

- b. The Agency will maintain one contact person per project. The owner(s) or owner's agent will agree upon the contact person and notify the Agency of any change.
- c. Part of the credit will be recaptured if the qualified basis at the close of any year is less than the amount of such basis at the close of the preceding taxable year, or if the minimum number of qualified low-income units is not maintained for the complete 15-year compliance period. Recapture determinations are made by the Internal Revenue Service.

