

STATE OF MISSISSIPPI

MISSISSIPPI HOME CORPORATION

HOUSING TAX CREDIT PROGRAM  
2009 Qualified Allocation Plan

Adopted: January 5, 2009

### Introduction

The Mississippi Home Corporation (the "Corporation" or "MHC") is charged with the responsibility of administering the Housing Tax Credit Program (the "Tax Credits", "Housing Credit" or the "Tax Credit Program"), which was created by Congress in the Tax Reform Act of 1986, and which has been further amended by acts of Congress and amendments to Section 42, as amended, of the Internal Revenue Code.

The Code requires the Corporation to develop a qualified allocation plan (i) which shall set forth the selection criteria to be used to determine housing priorities of the State of Mississippi that are appropriate to local conditions; (ii) which also gives preference in allocating housing credit dollar amounts among selected developments that (a) serve the lowest income tenants, and (b) obligate to serve qualified tenants for the longest period; and (iii) which provide a procedure that the Corporation (or an agent or other private contractor of the Corporation) will follow in monitoring for noncompliance and in notifying the Internal Revenue Service of such noncompliance. The selection criteria set forth in a qualified allocation plan must include: (i) development location, (ii) housing need characteristics, (iii) development characteristics, (iv) sponsor characteristics, (v) tenant populations with special housing needs, and (vi) public housing waiting lists. The Code also requires that the qualified allocation plan be subject to public review in accordance with rules similar to those in Section 147(f) (2) of the Code.

The delegation of authority to the states to administer the Tax Credit Program, a tax incentive program, is unique and unprecedented. However, the delegation is limited. While recognizing the value of decentralized decision making, Congress also imposed a uniform set of procedures each state must follow in administering the Tax Credit Program. These procedures are designed to ensure that the low-income renters, whom the program is intended to benefit, are those actually served. These procedures are also designed to make certain that the Tax Credit is rationed in the amount necessary to make each development feasible and viable, taking into account all sources of funding.

In December 1997, the National Council of State Housing Agencies ("NCSHA") established a Task Force of Executive Directors of agencies with the responsibility for the Tax Credit Program in twenty (20) states to develop Best Practice Standards for State Housing Credit administration which responds to the suggestions the General Accounting Office (GAO) and the Ways and Means Oversight Subcommittee as well as other participants in the Housing Credit Community have made.

The concerns include:

- The adequacy of housing needs assessments;
- The need for property market studies;
- Appropriate use of state agency discretion in allocating Credits;
- The need for independent, third party cost certifications;
- The adequacy of debt service ratios;
- Operating and replacement reserves;
- Operating expenses;
- Quality of management experience; and
- Adequacy of compliance safeguards.

On October 10, 1998, NCSHA adopted the Task Force's fifteen (15) recommended minimum standards for allocation and underwriting of housing credit agencies. If in the future Congress considers legislation in these areas, these standards will provide guidance.

State legislation requires the Corporation to develop an annual housing plan detailing the housing needs of the State. Based upon any such housing needs study and other available information and data, the Qualified Allocation Plan has been designed to address the most pressing housing needs of the State. To assess Mississippi's overall housing needs, the Corporation has relied on the work of the Mississippi Housing Task Force (the "Task Force"), data compiled for the Target Area Designation Statistical Analysis and Report, the State of Mississippi Consolidated Plan, and available census data.

On September 23, 2008 in Jackson, the Corporation, acting pursuant to statutory requirements, held a public hearing for the purpose of receiving comments on a draft of Mississippi's 2009 Qualified Allocation Plan (QAP). In addition to oral comments received at the hearing, the Corporation requested written comments from interested members of the public concerning the draft QAP. Both the oral and written comments received were considered and fully evaluated prior to the Corporation's adoption of the 2009 Qualified Allocation Plan. The 2009 Qualified Allocation Plan was presented to the Governor of the State of Mississippi, who formally approved its terms by Resolution received by the Corporation on January 5, 2009.

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**SECTION 1: GENERAL POLICIES AND GUIDELINES**

**1.1 Administrative**

1. The Mississippi Home Corporation (MHC) will allocate its 2009 annual credit authority (ACA) including additional 2009 credits granted by the Housing and Economic Recovery Act of 2008 (H.R. 3221), and any carry forward, returned, or national pool credits.
2. The maximum tax credit award for a development awarded credits from the ACA under this plan is \$750,000. However, those funded from the Congressional District set-asides are limited to \$350,000 per development.
3. The minimum development size to be considered for a reservation of tax credits is twenty-four (24) units.
4. The Corporation shall limit the eligibility of the awards of housing tax credits for any developer, general partner, or related party to a maximum of 25% of the total credits reserved or allocated. The Corporation reserves the right to waive this limitation for the following reasons:
  - a. Credits undersubscribed
  - b. Eligible properties are concentrated in an area.
  - c. Need for eligible properties in an unconcentrated area.
  - d. Any other reason that the Corporation deems in the best interests of the citizens of the State of Mississippi.

In the event the Corporation deviates from its 25% limitation, it will provide a written explanation to the public at the time the awards are made.
5. The Corporation will accept applications within the identified application cycle time frame after the approval of the QAP by the Governor of Mississippi.
6. All transfers of tax credits are subject to approval by the Corporation (such approval shall not be unreasonably withheld). Any recipient, including an owner, developer, and/or general partner, of tax credits that transfer said credits to a third party prior to the issuance of Forms 8609 shall be ineligible to receive future tax credit awards for a three (3) year period from the date of such transfer.
7. Applicants which are business entities must be legally formed and have authorization to do business in Mississippi as approved by the Secretary of State's Office before the submission of the tax credit applications. The authorization must accompany the application.
8. All documents submitted for review must be properly executed by all designated parties. Properly executed means fully completed, signed, dated, and/or notarized.

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9. Application fees are non-refundable. Failure to include application fee, elect a minimum set aside of rent restricted units, or sign the application form will disqualify the application for review during the specified cycle.
10. The Corporation reserves the right to make and revise allocations according to its Qualified Allocation Plan in its inherent discretion and in accordance with published federal regulations.

### **1.2 Eligibility and Compliance**

1. Applicants may verify prior to submitting an application for tax credits to the Corporation that they are in compliance with any and all programs they are participating in offered or administered by the Corporation. A request for the development's entities compliance status must be received by the Corporation at least forty-five (45) days before submission of a tax credit application. This request is not mandatory. The applicant's compliance status will be verified upon receipt of a tax credit application. If a request is submitted within the time frame mentioned above, applicable research fees will apply. A charge of \$55.00 per hour will be assessed to cover the cost of researching and processing an applicant's compliance status request. An applicant, including all parties associated therewith, must be free of any open issues of major noncompliance with any and all programs offered by the Corporation in order to participate in the application process. Applications that are proposed by an entity with existing major noncompliance findings for the owner, developer, general partner, or management entity of any development in which they are associated will be disqualified from consideration.

#### ***Examples of major noncompliance include, but are not limited to:***

- Rents charged to residents that exceed maximum limit;
- Failure to follow the next available unit rule (AUR);
- Numerous instances of administrative noncompliance (failing to execute the procedures and policies stated in the Mississippi Compliance Monitoring Manual and loan guidelines under the Mississippi Affordable Housing Development Fund);
- Severe health and safety violations generally affecting more than one (1) unit (structural problems, severe water damage, fire hazards, etc.);
- Down units (not suitable for occupancy for extended period of times generally more than ninety (90) days);
- Disposition/sale of property improperly; and
- Delinquent on loan payments to the Mississippi Affordable Housing Development Fund.

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- Households whose member(s) total gross annual income exceed maximum limit at initial move-in date.

### *Examples of minor noncompliance include, but are not limited to:*

- Isolated instances of administrative noncompliance (failing to execute the policies and procedures stated in the Mississippi Housing Tax Credit Compliance Manual).
  - Violations that require correction but do not impair essential services and safeguards for residents.
2. Applications will be disqualified that are proposed by principals. (including consultants that have previously been a principal) who have participated with one or more of the Corporation's programs or any other state's tax credit program that has a current major noncompliance issue and/or is in foreclosure or has been foreclosed. Applicants are required to disclose any and all members of the development team who receive fees for their services. Applicants are required to submit a list of all tax credit developments (either with the Corporation or any other Housing Finance Agency) they have participated in as a principal in the three (3) years preceding the application. All parties are subject to be listed on MHC's website. The Corporation will have the sole and absolute discretion to determine those parties ineligible for the tax credit program due to non-compliance or disqualification status.
  3. Any person (individual, corporation, partnership, association) or principal that is under debarment, proposed debarment, or suspension by the Corporation, a federal agency, or other state Housing Finance Agencies shall be ineligible to participate in the application review process for an application pursuant to the 2009 Qualified Allocation Plan. Such applications will be disqualified from consideration. Each applicant must also include in the application a statement concerning any criminal convictions, indictments, and pending criminal investigations of all owners, developers and/or general partners, and provide dates and details of each circumstance, unless otherwise prohibited by court order, statute or regulation.
  4. Developments entering extended low-income use periods (the period immediately following the initial 15 year compliance period) will be monitored in accordance with the Corporation's Post year 15 Procedures as outlined in the Compliance Monitoring section of this Plan and the most recent Compliance Monitoring Plan, including any and all amendments.
  5. Applications will not be accepted that are submitted by developers that have outstanding fees with the Tax Credit Allocation Division. The applicant should submit a request to the Tax Credit Allocation division inquiring if there is a balance of outstanding fees owed.



**1.3 Development Types**

1. A development that has previously received tax credits and has exhausted all of its allowable credits (i.e. “allowable” means there are no credits still available to the taxpayer at the accelerated or 2/3 rate at the time of the request) will be eligible for additional tax credit allocations provided the development exited the housing tax credit program in good standing, if the required compliance period has expired. This guideline is not applicable to tax-exempt bond developments.

In order to qualify, developments must have rehabilitation expenditures of a minimum of ten thousand dollars (\$10,000) in hard costs per unit.

2. For acquisition developments, documentation of the property ownership for the last ten (10) years must be provided with the application. The acquisition of affordable housing or rehabilitation of existing units as described in Section 42, as amended of the Internal Revenue Code (the “Code”) must have rehabilitation expenditures of ten thousand dollars (\$10,000) per housing unit or twenty percent (20%) of the original basis, whichever is greater, in order to qualify under the tax credit program.

The acquisition of affordable housing from a government entity may have rehabilitation expenditures of six thousand dollars (\$6,000) per housing unit if there is a waiver from the Internal Revenue Service from the ten (10) year previous ownership requirement for the acquisition credit on the grounds that the owner otherwise is likely to pay off the existing mortgage and end low income occupancy.

3. Acquisition/rehabilitation developments that are not ten (10) years old or have changed ownership within the last ten (10) years, an approved waiver must be obtained from the U.S. Department of the Treasury. This waiver must accompany the application.
4. For acquisition/rehabilitation properties, the acquisition price on which tax credits are allocated will be limited to the lesser of the sales price or the appraised “as-is” value of the property.
5. Rehabilitation of a multifamily development shall include any development which experienced destructive damage or long term deterioration causing existing structures to be removed and new buildings erected on the same site. Any consideration for expansion of the site or existing buildings, as well as, an increase in the number of units/buildings to be placed on the site must obtain MHC prior approval to be considered as a rehabilitation development. Any proposed development that requires a conversion from its intended/initial use must meet new construction standards, to the extent possible for the proposed rehabilitation. These developments will be eligible for the Preservation scoring points.
6. All acquisition/rehabilitation developments that involve the displacement of persons, including displacements caused by rehabilitation and demolition activities must submit a Relocation Plan subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970.

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7. For all rehabilitation properties, a physical needs assessment for each building and each unit must accompany the application certified by a licensed architect or engineer. For all new construction properties, the Minimum Design Quality Standards must be met and certified by a licensed architect or engineer. Any deviations must receive the Corporation's approval prior to submitting an application. This documentation must accompany the application.
8. All single family type construction (single family detached houses, town homes, duplexes, and 4-plex units) must have, at a minimum, a two car carport for each unit.
9. Housing components delivered to the site must meet MHC's "Site Delivered Housing Component Requirements" available on MHC's website [www.mshomecorp.com](http://www.mshomecorp.com) or by calling 601.718.4642 or 800.544.6960.

### **1.4 Submission of Application**

1. Applications must be submitted in three separate green binders as follows:
  - a. Binder 1: Application Fee, Required Documents Placement, Application Form
    - i. Application Fee (*on top of the complete package*)
    - ii. Required Documents Placement
      1. Developer Capacity Statement
      2. Threshold Requirements Checklist & Certification
      3. Applicant Rating Form
      4. Readiness Criteria Checklist and Certification
      5. Citizen Participation Requirements Checklist & Certification
      6. Development Pro Forma
      7. Maximum Total Construction Cost (MTCC)
      8. Maximum Administrative Expense Certification (MAE)
      9. Maximum Developer Profit Percentage Certification (MDPP)
      10. Underwriting Criteria Certification
      11. Applicant's Certification Statement
      12. Site Assessment Form
    - iii. Application Table of Contents
    - iv. 2009 Tax Credit Application
  - b. Binder 2: Selection Criteria and Threshold Factors
  - c. Binder 3: Required Documents and Other Attachments

*Application binders may be purchased from the Corporation at a cost of \$4.00 each or 3 (three) for \$10.00.*

2. All documents required by the Corporation must be submitted with the application during the cycle. All information submitted for review must be current year information unless otherwise noted in the QAP or if approval has been received from the Corporation at least ten (10) working days prior to submission of the application. The Corporation's staff interpretation of the documentation submitted with the application is final. Therefore, it is critical that the developer's documentation contained in the application is clear, concise and to the point as it relates to the QAP item that the documentation is addressing.

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3. All sections of the application must be tabbed and submitted in the color-coded format as outlined in the QAP.
  - a. Community Notification: each attachment must be placed under a separate tab.
  - b. Development Readiness: (Items 1 – 9) must be separated by tabs so that each item is clearly identified.
  - c. Sections with multiple documents per component must be separated by using tabs. (i.e Community Services and Amenities)
4. All applications must include a table of contents in accordance with the example provided in the attachment section of the QAP. (*Attachment 8: Table of Contents*)
5. An application will not be accepted if it is not properly executed and notarized.
6. An applicant cannot change the irrevocable set-aside election once the application has been received by the Corporation.
7. An application must provide documentation that it meets all threshold requirements listed in this plan. Documentation satisfying the five (5) threshold requirements must be included in the application and tabbed. Failure to tab this information will result in five (5) points being deducted from the applicant's ranking score total.
8. All applicants must submit a copy of the 2009 application form in Excel format. This information may be provided on diskette or CD.
9. Application fees and allocation/monitoring fees must be in the form of a cashier's check or money order made payable to Mississippi Home Corporation.
10. All applications must include site drawings depicting the front, side and rear elevation(s) for each building design.

All final plans including a complete site layout certified by the development's licensed architect/engineer must be submitted at the due date of the Tax Credit Reservation in PDF format on cd. If there have been changes to the final plans from those submitted with the application, then prior approval must be obtained from MHC. Plans must be submitted in 11 x 17 format.

11. The Corporation will accept applications financed with tax-exempt bonds at any time after the approval of the Qualified Allocation Plan by the Governor of Mississippi. In order to qualify for the full four percent (4%) credit, an opinion letter from a Certified Public Accountant must accompany the application certifying that fifty percent (50%) or greater of aggregate basis will be financed by tax-exempt bonds.

**1.5 Processing of Application**

1. Following submission of an application for tax credits, the Mississippi Home Corporation will not allow changes or corrections to be made to the application once the Corporation's deadline for receipt of the applications has passed. However, in its review of tax credit applications, the Corporation may request additional information to make a determination regarding the eligibility of the development for an allocation of tax credits. Such requests shall not be an indication of the worthiness of the particular development.
2. The Corporation will review applications in the following order:
  - i. Selection Criteria: Applications that do not meet the minimum scoring threshold will not proceed past this step.
  - ii. Threshold Factors: Applications that do not satisfy all Threshold Factors will not be considered for an allocation of tax credits.
  - iii. Feasibility Underwriting: Each application that successfully meets the Selection Criteria and Threshold Factors requirements will be underwritten using standards set by the corporation to determine the amount of credits needed to financially stabilize the development.
3. Site visits will be conducted for each application submitted. Boundary corners of proposed new construction sites that front on public streets must be clearly marked and remain marked until the corporation has made its announcements of funded developments. The Corporation reserves the right to ask for clarification and deny an application because of site location. The Corporation also has the right to require a buffer for sites that are deemed unacceptable (ex. adjacent to railroad tracks or graveyards). Site acceptability is determined by the Corporation.

**1.6 Application Financial Feasibility Review**

1. Tax credit applications whose costs exceed the Corporation's maximum construction cost per unit as outlined in the QAP must provide the following documentation:
  1. Detailed supporting documentation from the development's engineer and/or architect.
  2. Detailed breakdown of specific cost factors which exceed the maximum cost per unit limit
  3. Information detailing the cost per unit of each contributing factor and the percentage of total increased cost.Costs that exceed the maximum construction cost per unit by \$10,000/> must submit cost justification to the Corporation for review and approval at least ten (10) working days prior to the start of an application cycle. Failure to receive prior approval will disqualify the application from consideration of the increased costs. The Corporation may limit the allowable tax credit allocation to those applications exceeding MHC's calculated maximum construction cost per unit.
2. In evaluating applications for tax credits, the Corporation will, among other things, analyze the development costs including; costs per unit, expenses per unit, development income, affordability of rents, cash flow of the development, and the gap between sources and uses of funds.

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3. The Corporation will conduct its initial financial feasibility review utilizing the current market value of the average tax credit sales price, utilizing separate industry averages for developments of 48 or fewer units and for developments with greater than 48 units.
4. The Corporation will require copies of proposed budgets and cash flow statements to be submitted to the potential financing entity. An official letter of acknowledgement in receipt of this documentation from the lender must be submitted.
5. In its financial analysis, the Corporation will assume a seven percent (7%) vacancy rate, three percent (3%) income, and four percent (4%) expense increases per year.
6. Syndication costs will not be allowed in eligible basis.
7. Application and Allocation Fees will not be allowed in eligible basis.
8. The contingency line item (general requirements) cannot exceed six percent (6%) of the total construction cost. The construction contingency line item should not exceed five percent (5%) of construction cost.
9. All "other" line items must be identified and listed and may not exceed two percent (2%) of the total construction cost.
10. Developments that fail to include the minimum replacement and operating reserves outlined within the QAP will not be considered financially feasible for tax credits.
11. Applicants must have a preliminary letter of intent to provide the equity investment from a syndicator based on the proposed submitted application for the development (see Attachment 11). Applicants are not prohibited from changing syndicators; however, a new letter of intent will be required from the subsequent syndicator in the event of a change from the initial application.

### **1.7 Funded Developments**

1. The Corporation will make reservation recommendations to its Board of Directors within one hundred and twenty (120) days of the close of the application cycle.
2. The Corporation will issue Commitment Letters within twenty (20) days of the deadline for submitting executed Reservation Letters.
3. The *original* reservation and *original* commitment letters must be returned to the corporation.
4. As a condition for an allocation of Housing Tax Credits, the Corporation will require the tax credit recipients to complete Form 8821, Tax Information Authorization (Rev. 4-04) naming the Corporation as the appointee to receive tax information. The subject form will be included in and submitted with the tax credit recipient's reservation package. On line 3 of subject form, in addition to the type of tax, tax form number, and year of period,

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the following statement must be included in column (d): “Any related federal tax information pertaining to housing tax credits, including audit findings and assessments.” All applicable items of the form must be completed by the owner.

The Corporation will forward the completed and signed Form 8821 (Rev. 8-08) to the IRS at the following address:

Internal Revenue Service  
Memphis Accounts Management Center  
P.O. Box 268  
Stop 8423  
Memphis, TN 38101-0268

The subject form must be received by the IRS within sixty (60) days of the date it was signed or it becomes invalid.

The Corporation will ensure that information provided by the IRS is used solely for the purpose of Housing Tax Credit awards. The information will be safeguarded by the Corporation to prevent improper disclosure.

5. Any development receiving tax credits must have central air and heat by the placed in service date. A certified letter from the development’s architect or engineer must verify that the central heat and air system has the capacity to properly accommodate all of the units. An application that provides information as to increased energy efficiency effort to be made by the developer to reduce tenant costs will be given additional consideration.
6. All developments that receive an award of tax credits will be required to post signage at the development’s construction site listing the Mississippi Home Corporation (MHC) as a financing source. Information on the signage specifications is available on MHC’s website at [www.mshomecorp.com](http://www.mshomecorp.com).
7. All deadlines outlined in the Reservation and Commitment letters will be enforced. Requests for extensions of any deadline will be considered only if requested in writing at least ten (10) days prior to the deadline date and only for good cause shown. If in the event an extension is granted, the Corporation will assess a late fee of \$100 per day for the first five (5) days, \$250 per day for days six (6) through fifteen (15), and \$500 per day for days sixteen (16) through thirty (30) beyond the deadline date. At the end of the thirty (30) day extension, credits will be recaptured by the Corporation, except for good cause shown. There will be no refund of previously paid tax credit fees or late fees, and no waivers will be granted of late fees or other requirements as outlined in the QAP.

Additionally, MHC will assess a late fee of \$100 per day for failure to respond to requests made by the Corporation or submission of the status reports.

**1.8 Development Requests**

1. Development owners must receive prior written approval from the Mississippi Home Corporation (MHC) for any changes from the representations of the original tax credit application. Please be advised that approval will not be granted for any requests that would affect the initial scoring of the application. Failure to receive prior approval may result in a one year suspension from participation in the program.
2. If the owner submits a request to change the development site location from the initial site represented in the tax credit application, the owner is required to conduct another public hearing. Documentation of the subsequent hearing must be provided in accordance with the requirements outlined within the Community Notification Guideline located in the Threshold Factor section of the QAP. Additionally, the owner must provide documentation evidencing proper zoning of the new site location. If a site change request is accepted, the owner must provide MHC with a copy of the recorded warranty deed within thirty (30) days of approval.

**1.9 Development Completion**

1. Developments receiving tax credits must commit to providing housing (i) for persons on public housing waiting lists, or (ii) in those jurisdictions where there is no housing authority for persons on waiting lists for other affordable housing developments. Evidence of the use of the waiting list must be provided at the final inspection before the issuance of Forms 8609.
2. All items listed in the application must be in place upon completion of the development regardless of whether or not points were awarded (ex. All amenities and/or services, total number of units, etc.). The development will not receive Forms 8609 until everything represented in the application is in place.
3. Prior to issuance of Forms 8609, the Corporation will conduct a site visit to ensure that all requirements outlined in the subject application have been met. In the event that an initial visit warrants subsequent visits, the Corporation will charge a fee of \$250.00 per subsequent visit.
4. Developments receiving tax credits pursuant to this Plan will be required to provide cost certifications after development completion. A cost certification must include all cost categories listed under “Cost Breakdown” in the applicable tax credit application and conform to the requirements of the Corporation outlined within the Form 8609 Request Documents section of this Plan.

## **SECTION 2: DATES AND FEES**

### **2.1 Application Cycle**

Applications will be accepted during the following cycle:

<b>Cycle</b>	<b>Application Period</b>	<b>Cycle Set Aside</b>
1	March 30 – April 3, 2009	ACA Credits

The aforementioned cycle will utilize 2009's tax credit authority. ACA credits not allocated during the proposed competition or credits recaptured will be carried forward to calendar year 2010, subject to Internal Revenue Service ruling.

A complete application package must be received at the office of the Corporation, 735 Riverside Drive, Jackson, Mississippi 39202 / P.O. Box 23369 Jackson, Mississippi 39225-3369 no later than 2:00 p.m. Central Standard Time on the last day of the application period to be considered for an allocation. Late applications will not be accepted.

### **2.2 Technical Assistance**

All inquiries of MHC allocation staff, regarding the QAP application or its process, must be made prior to five (5) business days before the cycle's opening date. Technical assistance will not be provided beyond March 20, 2009. QAP technical assistance inquiries will be received by phone at (601) 718-4657, by fax at (601) 968-0205, or by e-mail at [TaxCredits@mshc.com](mailto:TaxCredits@mshc.com).

### **2.3 Fees**

The Corporation shall charge fees payable in the amounts specified below:

**Application Fee:**     \$1,050 – Application Cycle Submissions)  
                              \$3,500 – Tax Exempt Bond transactions requesting Housing Tax Credits  
                              (*Application fees are non-refundable.*)

**Servicing Fee:**

- A Servicing Fee of 2.5% of the total credit over the ten (10) year period will be assessed to each development that receives a reservation of tax credits. Of which 2% will be used for allocation and .5% for monitoring.
  - 50% of the fee is due at RESERVATION.
  - 50% of the fee is due at COMMITMENT.
  - 100% of the fee is due at RESERVATION for Tax Exempt Bond (TEB) developments.



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**2.4 Refunding of Servicing Fee**

The Corporation will grant a partial refund of servicing fees if Tax Credits are returned within six (6) months of the Reservation date. MHC will refund the servicing fees for the credit award less \$20,000 or 15%, whichever is less. There will be no refund of the servicing fee beyond this date.

**Chart 1: Important Dates**

<b>Type of Deadline</b>		<b>Date</b>
1	Application Workshop	January 28, 2009
2	Public Hearing Notification Deadline	March 11, 2009
3	Last day to hold a Public Hearing	March 15, 2009
4	Cost Justification Request Deadline	March 16, 2009
5	Other Approvals pertaining to the application	March 16, 2009
6	Technical Assistance Deadline	March 20, 2009 @ 5:00pm
7	Application Cycle Submissions	April 3, 2009 @ 2:00pm
8	Site Control Options Contract Expiration Date	September 30, 2009 or later

**Chart 2: Fees**

<b>Type of Fee</b>		<b>Amount of Fee</b>
1	Application Fee	\$1,050 ( <i>Application Cycle</i> ) \$3,500 ( <i>TEB</i> )
2	Reservation Fee	50% of Servicing Fee 100% of the Servicing Fee ( <i>TEB</i> )
3	Commitment Fee	50% of Servicing Fee
4	50% Completion Penalty Fee	1.25% of the first 5 years credit allocation
5	Late Fees	\$100 per day for the first five (5) days \$250 per day for days six (6) thru fifteen (15) \$500 per day for days sixteen (16) thru thirty (30)
6	Non-Response Fee	\$100 per day for failure to respond to requests made by the Corporation or submission of status reports.
7	Subsequent Site Visit Fee	\$250 per visit will be assessed for each subsequent visit after an unsatisfactory initial inspection

### **SECTION 3: APPEALS AND PUBLIC RECORDS REQUESTS**

#### **3.1 Appeals**

Any applicant wishing to appeal a decision of the Corporation may do so in writing delivered to the attention of the Corporation's Executive Director no later than 5:00 pm local time on the fifteenth (15th) day following the date of the Reservation or Explanation Letter. Appeal requests must be specific as to the decision being appealed. An applicant may only appeal its own application; thus, no applicant can appeal any determinations of another applicant's application. The following decisions are the only appealable decisions:

Determinations regarding the applicant's satisfaction of:

- Eligibility requirements
- Finding of Major Non-compliance
- Underwriting criteria
- Scoring under the Selection Criteria

Any written appeal shall specifically identify the grounds for appeal. The appeal shall be limited to the initial application and no additional documentation will be accepted by the Corporation.

Within five (5) business days of receiving the appeal, the Executive Director will schedule an informal appeal meeting with the applicant and the Corporation's Tax Credit Appeals Committee. The Tax Credit Appeals Committee shall consist of the Executive Director, Corporation tax credit staff, and legal counsel to the Corporation.

Following the informal appeal before the Corporation's Tax Credit Appeals Committee, that Committee will review the appeal and provide a response to the applicant within ten (10) business days. If not satisfied with the decision of the Tax Credit Appeals Committee, the applicant may appeal to the Corporation's Board of Directors at its next regularly scheduled Board Meeting. The applicant will be placed on the Board's Agenda and be given an opportunity to present its appeal to the Board.

A decision of the Board of Directors shall be rendered as soon as possible. The decision of the Board of Directors shall be deemed the final decision of the Corporation.

In any appeal, the burden is on the applicant to demonstrate any errors in the review and allocation process.

#### **3.2 Public Records Requests**

All parties seeking information regarding tax credit applications must submit request in accordance with the Corporation's public records request policy. Information regarding this procedure is available on MHC's website at [www.mshomecorp.com](http://www.mshomecorp.com) under "Contact MHC".

#### **SECTION 4: TAX EXEMPT BONDS**

Developments financed with certain tax-exempt bonds are eligible for tax credits without receiving a state allocation. Tax-exempt bond developments include developments financed with exempt facility bonds that are used for qualified residential developments. If fifty percent (50%) or more of a development's basis (total development cost including land) is financed with tax-exempt financing, one hundred percent (100%) of the development qualifies for the tax credit without any decrease in the state's allocation.

Although these bond-financed developments are not required to receive tax credit allocations from the state, the development must satisfy the requirements for an allocation of tax credits under this qualified allocation plan. The development must also commit to a thirty (30) year extended low-income use on the portion supported by tax credits. Bond-financed developments will be reviewed for Threshold Requirements, Financial Feasibility, and Required Documents under this allocation plan. However, they will not be required to meet the minimum point threshold nor the ten percent (10%) requirements for a carryover allocation of Tax Credits if the development will not be placed in service by the close of the credit allocation year. In addition, Tax-Exempt Bond deals may not be subject to the same underwriting restrictions as proposed competitive tax credit developments.

An opinion letter from a Certified Public Accountant must accompany the application to certify that fifty percent (50%) or greater of aggregate basis will be financed by tax-exempt bonds. Tax-exempt bond applications should be submitted at least sixty (60) days prior to the scheduled closing on the bonds.

The Mississippi Home Corporation (MHC) can act as a conduit issuer on multifamily bond transactions. Interested parties should contact, Blair Bingham, Chief Financial officer at (601) 718-4642.

## **SECTION 5: ACA (ANNUAL PER CAPITA AUTHORITY) SET-ASIDES**

Under this QAP, the Corporation will allocate ACA tax credits from its 2009 per capita credit authority, unused credits from the previous years, returned credits, and national pool credits.

### **Non-Profit Set-Aside**

Non-profit entities will have available ten percent (10%) of the per capita ACA tax credit authority. This ten percent (10%) set-aside must be reserved, committed and allocated to buildings or developments in which "qualified nonprofit organizations" own directly or indirectly a fifty one percent (51%) interest in the development throughout the compliance period. A nonprofit may not be affiliated with or controlled by a for-profit entity. A nonprofit is not prohibited from applying for tax credits in any of the other set-asides.

### **Congressional Districts Set-Aside**

The Corporation will set aside for each of the state's four congressional districts five hundred thousand dollars (\$500,000) of the ACA credit authority with a maximum of three hundred fifty thousand dollars (\$350,000) available per development. Please see the attached map for the congressional districts boundaries.

### **Single Family Lease Purchase Set-Aside**

The Corporation will set aside forty percent (40%), after the reduction for the nonprofit and congressional districts set-asides, of the ACA credit authority, for single family lease purchase developments. Single family lease purchase developments will only be eligible to compete in the single family lease purchase set-aside.

### **Historic Set-Aside**

The Corporation will set aside seven hundred and fifty thousand dollars (\$750,000) of the ACA credit authority for Historic developments in response to H.R. 3221. To be eligible under this set-aside, the development's buildings must either:

1. Be listed individually in the National Register of Historic places, or
2. Be located in a National Register historic district and be certified by the Mississippi Department of Archives and History (MDAH) as contributing to the significance of the district, or
3. Be designated as a Mississippi Landmark by MDAH, and
4. Have a letter of support from the Certified Local Government, if applicable.

Additionally, applicants must submit a letter from MDAH which confirms their preliminary eligibility for historic tax credits along with a copy of Parts 1 and 2 of the Historic Preservation Certification Application.

### **Statewide Set-Aside**

The remainder of the ACA, after these set-asides, will be utilized for developments statewide.

[INSERT COLOR MAP OF MISSISSIPPI WITH CONGRESSIONAL DISTRICT NUMBERS]

## **SECTION 6: MHC REVIEW PROCEDURES**

### ***6.1 Notification of Scoring and Threshold***

The Corporation will advise an applicant of its points score and subsequently, of any deficiency in the Threshold Requirements via fax at the number supplied by the applicant in the application. The applicant will not be permitted to submit any additional information relating to Selection Criteria points but will have the opportunity to correct and return a deficient threshold item to the Corporation via FAX to (601) 968-0205 or hand delivery within the time frame requested in the notice of deficiency, typically 24 hours or less. In addition, two (2) points will be deducted for each deficient threshold requirement item.

Any application not meeting the minimum points score or threshold requirements will not be eligible to receive an award of tax credits.

### ***6.2 Selection Process***

For ACA competition, selection of applicants that have met selection criteria, threshold, and underwriting criteria of this Plan shall be made in the following order:

1. Non-profit set-aside
2. Congressional District set-asides
3. Single Family lease purchase set-aside
4. Historic set-aside
5. Statewide set-aside
6. Waiting List for any remaining credit authority

## **SECTION 7: SELECTION CRITERIA**

The Corporation will use the Selection Criteria stated below for the purpose of ranking developments during the application cycle. Applicants must score a minimum of ninety-two (92) points using the selection criteria below to be considered for a reservation of tax credits, except for developments satisfying the following criteria:

- The Corporation will reduce the minimum score required to eighty (80) points for preservation developments that are committed to providing one hundred percent (100%) of the unit's set-a-side for tenants at or below sixty percent (60%) of the county median gross income for forty (40) years or longer.

Applications will be scored and ranked according to the applicable set-aside identified in this Qualified Allocation Plan. Any unused, returned or national pool credit authority will be awarded to applications placed on a waiting list, ranked by scores statewide, during the application cycle.

The Corporation anticipates reserving, for those developments scoring highest under the Selection Criteria and meeting the minimum point threshold, tax credits up to the amount permitted by Section 42, as amended, of the Internal Revenue Code and necessary for the financial feasibility of the development and its viability as a qualified affordable housing development throughout the compliance period for each set-aside identified.

Regardless of strict numerical ranking, however, the Selection Criteria does not operate to vest in an applicant or development any right to a reservation or allocation of tax credits in any amount. Further, notwithstanding the point ranking system set forth above, the Corporation reserves the right and shall have the power to allocate tax credits to a development irrespective of its point ranking, if such intended allocation is: (1) in compliance with Section 42, as amended, of the Internal Revenue Code; (2) in furtherance of the housing goals stated herein; and (3) determined by the Corporation to be in the interests of the citizens of the State of Mississippi. However, the Corporation will make available to the public a written explanation for any tax credit allocation, which is not made in accordance with established priorities and selection criteria of the agency. If there is a tie in the scoring between proposed developments, the Corporation reserves the right to utilize a tie-breaking system as identified as herein to break the tie.

The Corporation will in all instances reserve and allocate tax credits consistent with sound and reasonable judgment, prudent business practices, and the exercise of its inherent discretion, reserving to itself such ultimate discretion permitted by applicable law.

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**Section 7.1 Eligible Points Items**

1. **20%/> of the units at 50% AMI** **10 points**

The development sets aside at least twenty percent (20%) of the units for persons at or below fifty percent (50%) of the Area Median Gross Income of the county where the development is located. Additionally, the owner agrees to execute an Extended Land Use Agreement committing to serve tenants at this income level for a period of forty (40) years or longer. To receive points, applicants must elect items I(2)(a) and J on page A11 of the application form. Single family lease purchase developments are not eligible for points under this category.

2. **Extended Use for 40 years or longer** **5 points**

The development commits to extend the compliance period to forty (40) years or longer. Single family lease purchase developments are not eligible for points under this category. To receive points, applicants must elect item J on page A11 of the application.

3. **Development Location**

Housing Need Point Eligibility Using Three Indicators: (1) HTC Units Allocated between 1998-2008, (2) Renter Households Below 60% of AMI, and (3) Growth Rank. Points assigned to include approximately 16 counties in each category based on the need indicators.

<b>1 Point</b>				
Benton	Choctaw	Claiborne	Copiah	Franklin
George	Greene	Hancock	Harrison	Holmes
Jefferson	Jefferson Davis	Kemper	Noxubee	Sunflower
	Walthall	Webster	Wilkinson	
<b>2 Points</b>				
Amite	Bolivar	Chickasaw	Clarke	Clay
Humphreys	Issaquena	Marshall	Montgomery	Panola
Pearl River	Perry	Prentiss	Quitman	Tunica
Yazoo				
<b>3 Points</b>				
Adams	Attala	Jasper	Lawrence	Leflore
Marion	Monroe	Pike	Sharkey	Stone
Tallahatchie	Tishomingo	Washington	Wayne	Winston
Yalobusha				
<b>4 Points</b>				
Alcorn	Calhoun	Carroll	Coahoma	Covington
Grenada	Itawamba	Jackson	Leake	Newton
Pontotoc	Scott	Smith	Tate	Tippah
Union				
<b>5 Points</b>				
Desoto	Forrest	Hinds	Jones	Lafayette
Lamar	Lauderdale	Lee	Lincoln	Lowndes
Madison	Neshoba	Oktibbeha	Rankin	Simpson
Warren				

Source:  
 HTC Units: MHC data  
 Renters Below 60% AMI: Ribbon Demographics, 2008 estimate  
 Growth Rank: Mississippi State Tax Commission



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4. **Three or more bedrooms (Large Family)** **10 points**

The development targets families by designating at least 25% of its units three or more bedrooms.

*NOTE: Developments that elect to receive points in this category cannot elect to receive points for being a Preservation, Hope VI, or Historic Development.*

5. **Significant Community Services and Amenities** **Minimum 15 points**  
**Maximum 20 points**

The development offers tenants community services in at least two (2) unrelated areas and provides at least two (2) unrelated significant amenities not otherwise required by the entity providing financing or typically present in low-income rental housing. For services and amenities not listed, please contact MHC for prior approval within the timeline allowed for Technical Assistance. (*See Chart 1 of Section 2: Dates and Fees*)

**Examples of Community Services:**

- A. Personal Development
  - i. Computer Classes
  - ii. GED Training
  - iii. Job Training
  - iv. Foreign Language Courses
- B. Counseling Programs:
  - i. Homebuyer Education
  - ii. Credit Counseling
  - iii. Personal Budget
  - iv. Mental Health Program
- C. Child Development:
  - i. After School Program
  - ii. Child Care Services
  - iii. Parenting Classes
- D. Community Awareness Events / Activities:
  - i. Fire Safety
  - ii. Health Fair
  - iii. Drug and Alcohol Prevention
  - iv. Crime Watch

Tenant community services must be provided for a minimum of ten (10) years beyond the later of the placed in service date or the date of the first class/service. Applicants must provide an original copy of the formal contractual agreement that appears on the service provider's letterhead and it must be executed by both the applicant and service provider. The service contract must also disclose the location, frequency and the scope of the service(s) to be provided and clearly identify the commencement and expiration dates of the service. The development must maintain evidence that the services are being provided (e.g. service log book or activity reports). Additionally, property managers may be requested to provide additional services information in accordance with the most

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recent Compliance Monitoring Plan at the time of such request by MHC's Compliance Monitoring Staff. The services must be provided on a quarterly basis at a minimum. Points will not be allowed if the formal agreement does not contain the signatures of both parties.

Examples of Significant Amenities:

*Plans must include all significant amenities proposed for the development. The proposed amenities must be highlighted.*

- Furnished clubhouse or community building with designated tenant activities and meeting rooms
- Full perimeter fencing (non-chain link) with controlled access gate (wrought iron or wood security fencing)
- Washer and dryer connections in individual units (Must have capability to service side-by-side units or opposite wall units. Stackable units are acceptable for elderly and rehab developments.)
- Ceiling fans in living areas and bedrooms
- Swimming Pool
- Tenant Security (Ex: Electronic locking system, individual alarm system...)
- Landscaped area including a gazebo with sitting area
- Basketball, volleyball, or tennis courts
- Playground area and equipment.
  - The playground area must have a minimum of four (4) separate pieces of equipment. (Note: A swing structure with four (4) swings is considered one (1) piece of equipment.)
  - MHC will accept commercial grade multi-function single structures that provide a minimum of four (4) separate play activities.
  - Owners electing to utilize these structures must provide a photo and specifications to ensure it will accommodate the development size.
  - Additionally, multi-phased developments must each have its own defined play area.

Developments can earn additional points for providing any of the amenities and services specified below. Both Family and Elderly developments are eligible to receive points for these items. These items must be listed on the tax credit application form and identified on the development plans. Failure to highlight the plans will result in a five (5) point deduction.

- Washers and dryers provided in individual units. Stackable units are acceptable for elderly and rehab developments. **2 points**
- On site business center equipped with computer(s) with Internet access, fax machine, and copier available to all tenants **1 point**
- Cable television and Internet access. (Must be confirmed by letter from the architect/engineer only) **2 points**  
*(All units must be built with three (3) distinct networks and jacks. One network installed for phone [using CAT5e or better wiring]. A second network for data installed using CAT5e or better, networked from the unit back to a central location or similar configured*

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*wireless network. A third network for TV services using COAX cable. The wiring should be installed in the living area and each bedroom.)*

6. **Preserves existing low income housing units** **10 points**

The development preserves existing units serving low-income residents that would be lost due to:

- A. Conversion to market rate,
  - i. Documentation should include the HAP Contract evidencing the current owner's eligibility to convert the property to market rate.
- B. Loss of rental assistance,
  - i. HAP Contract,
  - ii. Rural Development,
  - iii. Development Based
- C. Foreclosure, default, or mortgage prepayment
  - i. The ability to prepay and convert to market, or loss of rental assistance, or default of foreclosure must be provided by the permanent financing entity.
- D. Lost Housing
  - i. Housing that has been lost in a presidentially declared disaster area.
  - ii. Aging stock (developments that are aged and no longer habitable).
  - iii. Evidence of loss must be provided by the development's financing entity (e.g. HUD) or public records (e.g. documents from the local courthouse).

7. **100% Tax Credit Units** **7 points**

All units in the development will be set-aside as tax credit units.

8. **Development-Based Rental Assistance** **10 points**

Developments requesting consideration under this category must provide rental assistance for a minimum of fifty-one percent (51%) of the development's units. The applicant can elect only one of the following:

- a. The proposed development is a component of a Public Housing Authority ("PHA") development program as evidenced by the PHA's contribution to the long-term economic feasibility of the development for a minimum period of five (5) years from the placed in service date. To be eligible to receive points under this criterion, the applicant must include an executed agreement that sets forth the type, term, and amount of the PHA's contribution to the economic feasibility of the development via operating cost contributions and/or tenant rent subsidies;

**OR**

- b. The development will receive Section 8 project-based rental assistance from HUD, through the Housing Assistance Program (HAP), a PHA via Project Based Voucher (PBV) Program, or rental assistance from USDA for a minimum of five (5) years from the placed in service date. To be eligible to receive points under this criterion, the applicant must include a copy of an executed agreement between the ownership entity and the funding entity that includes the amount of

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rental assistance that will be provided, the number of units assisted, its duration, and any qualifying terms and/or conditions. For HAP properties, written correspondence from the local HUD field office should state their consideration of the potential renewal of the rental assistance contract. Additionally, the tenant paid portion of the rent must be limited to no more than thirty percent (30%) of the tenant's adjusted income. In multifamily buildings, non-elderly, non-disabled PBV units are limited to 25% of the units in any one building. However, units can be exempt from that limit if an approved and monitored supportive service program arrangement is in place. Such exemption must be approved by HUD.

### 9. **Tenant-Based Rental Assistance** **3 points**

Developments requesting consideration under this category must provide evidence from either a local or regional housing authority indicating that Section 8 vouchers or certificates are available in the area where the development is or will be located. Prior to the issuance of IRS Form 8609, applicants will be required to have signed agreements with either the authority or administrator of the Section 8 Certificate/Voucher programs to mandate the development's first priority to Section 8 Certificate/Voucher holders.

Additionally, developments which receive rental assistance from USDA or HUD for less than fifty-one percent (51%) of the development's units and do not meet the development based rental assistance criteria can qualify for these points. Evidence of rental assistance must be provided.

*NOTE: No Development is eligible for both Development-Based and Tenant-Based Rental Assistance points.*

### 10. **Development Readiness** **10 points**

For developments requesting readiness points, the 2009 Readiness Criteria Checklist and Certification (SC-2) must be completed. The applicant must include all of the following items listed below in the tax credit application.

1. A physical needs assessment for the rehabilitation work to be completed. (*See Attachment 2*)

*Items 2 and 3 are for new construction only*

2. Drawings depicting:
  - a. Building elevations (front, side and rear);
  - b. Building floor plans showing total dimensions, total square footage, and other specifics required to make sure final product meets the Corporation's design requirements;
  - c. All proposed significant amenities (must be highlighted); and
  - d. Must be submitted in 11 x 17 format.
3. Completed Description of Materials Form. (*See Attachment 1*).

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4. Completed Construction Certification Form (SC-3) with notarized signatures from the development's owner, architect/engineer and general contractor confirming the following:
  - a. The drawings and description of materials form or Physical Needs Assessment are in compliance with the Corporation's Minimum Design Quality Standards (MDQS), and
  - b. That the proposed construction/rehabilitation and plans meet the applicable building code and permitting requirements, and
  - c. That the site development will meet all federal, state, and local requirements, and
  - d. The design will meet all applicable permit requirements.
5. Appraisal of land value and improvements for developments involving acquisition/rehabilitation or appraisal of land value provided for new construction developments. The appraisal must be dated within six months of the application date and provided by a certified appraiser. For acquisition/rehabilitation developments, the percentage of land cost reflected in the appraisal must be the minimum land cost shown on the application form.
6. Copies of proposed budgets and cash flow statements submitted to the potential financing entity. Official letter from the lender acknowledging receipt of this documentation must be included.
7. Commitment letter for construction financing. Financing amount must equal the construction loan amount listed on page A-17 of the application form.
8. Letter of Conformance with the State of Mississippi's or applicable Public Jurisdiction's Consolidated Plan.
9. Properly executed and dated construction contract.

### 11. **Application Workshop**

**10 points**

Attendee to the workshop must be a principal of the ownership or general partner entity, as reflected on application page A2 or A3. Attendees will receive one (1) certificate of attendance for point eligibility in the application process at the end of the session. A copy of the certificate must accompany the application file; failure to provide will disqualify the application from receiving points. Applicants will only be eligible to receive points for workshop attendance during the calendar year in which an application is submitted.

### 12. **Development Experience**

**5 points**

The general partner has previous experience in the development of the type of housing activity proposed. This experience must be verified as having occurred within three (3) years of the application date. No development experience points will be given where the general partner is involved in any development that has major noncompliance issues.

This experience must be documented on the Development Experience form. (*See Attachment 3*)

**13. Management Experience 2 points**

The applicant secures a contract from an experienced management company which has previous experience in managing the type of housing proposed. The experience will only be considered for developments currently managed by the management company listed in the application. No management experience points will be given for developments that have uncorrected 8823's filed with the IRS and/or possess any "open" or uncorrected state specific noncompliance items (in Mississippi only) such as noncompliance with owner rental assistance obligations, operating/replacement reserve requirements and/or community service requirements. In the event that 8823's have been filed on a particular development, a letter of clearance/correction from the tax credit allocating agency must accompany the management experience form. This experience must be documented on the Previous Management Experience form. (*See Attachment 4*)

**14. Single Family Lease Purchase Development 15 points**

Must have public access and be properly zoned for single-family residential homes. Additionally, these developments must be constructed separate and apart from any other tax credit developments that are exclusively multi-family rental complexes.

*NOTE: The owner must provide sample lease-purchase agreement advising tenants of the available purchase option at the end of the fifteen (15) year lease period, which may be included in the body of the lease. Additionally, the development must be fee simple with a homeowner's association for any common areas and must front on a publicly dedicated street at the time of fee simple transfer.*

**15. QCT or DDA and contributes to concerted revitalization plan 2 points**

The development is located in a qualified census tract (QCT), HUD designated difficult development area (DDA) and contributes to a concerted revitalization plan of the community in which it will be located. A map detailing the location of the proposed development within a qualified census tract must be provided. Maps must be obtained by contacting Dr. Ben Mokry at 601-718-4611.

In municipalities without a community revitalization plan, documentation must include (i) a letter of support from the highest ranking elected official(s) stating that the proposed development is desired within the community and (ii) describes how the development supports the community's vision for future growth verifying that the development contributes to the community.

In municipalities with a revitalization plan, documentation must include a letter from the city/county, signed by the subject area's verifiable authority, which verifies that the development is a part of the community revitalization plan and provides a detailed description of the contribution to the Revitalization Plan. This documentation must accompany the application. Additionally, the applicant must submit a copy of the relevant information from the area's plan regarding its housing goals/objectives including the

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document's title page OR the locality's letter must reference the title, adopted date, and information on how a complete copy of the plan may be accessed.

**16. Preservation, HopeVI, or Historic 15 points**

The development is a multifamily Preservation, Hope VI, or Historic development.

**17. Elderly Development 10 points**

Multifamily developments that set aside 100% of its units for the elderly population age sixty-two (62) or older that meet the requirements as defined by Rural Development or the Department of Housing and Urban Development (HUD) for elderly housing and accessibility for handicapped persons. Rural Development and HUD's definition of "Elderly" is where the tenant or co-tenant is 62 or older or handicapped/disabled so long as they are members of the Elderly household. Developments must meet the following requirements:

- a. The development must provide established policies and procedures, which demonstrate intent to provide housing to the sixty-two (62) or older age group, or for persons meeting the Rural Development or Department of Housing and Urban Development's definitions.
- b. The development must have significant facilities and services normally specifically designed to meet the physical or social needs of older persons or for persons meeting the Rural Development or Department of Housing and Urban Development's definitions. The development must provide six (6) of the eight (8) appropriate services or facilities listed below:
  1. an accessible physical environment
  2. congregate dining facilities
  3. emergency services
  4. preventive health care programs
  5. information and counseling
  6. homemaker services
  7. outside maintenance and referral services
  8. transportation to facilitate access to social services

*NOTE: No development is eligible for both large family and elderly points.*

**18. Mixed-Income Developments 12 points**

For developments where at least twenty percent (20%) of the units will serve tenants with incomes between sixty percent (60%) and eighty percent (80%) of Area Median Income and twenty percent (20%) of the units will serve market rate tenants.

**19. Preservation Revolving Loan Fund 5 points**

For developments proposing acquisition/rehabilitation or rehabilitation of USDA Section 515 housing, and which have received a financial commitment from the Preservation Revolving Loan Fund.

**20. Quality Enhancements**

**Maximum 10 points**

These items must be certified by a letter from the development's architect/engineer and incorporated into the development plans and specifications.

Each item below will be worth 2 (two) points:

- a. Lowboy Toilets
- b. Tankless Water Heaters
- c. Two Car Garages with garage door openers (motorized) for single family units
- d. Carpet in bedrooms
- e. Low VOC Flooring (e.g. carpeting), ceramic tile, or hardwood laminate flooring

**21. Over Concentration**

**Negative 5 points**

Five (5) points will be deducted if an applicant proposes a new construction development in a primary market area that has received three or more tax credit awards during the previous two (2) years with the exception of the "Directed Six" counties (George, Hancock, Harrison, Jackson, Pearl River, and Stone). The following chart indicates the areas which are subject to these points deduction:

<b>Zip Codes with 3+ Developments Allocated HTC in Previous Two Years</b>			
<b>COUNTY</b>	<b>ZIP</b>	<b>2007</b>	<b>2008</b>
Hinds	39204	2	2
Hinds	39213	2	1
Lowndes	39701	1	2

**22. Points will be deducted for the following:**

- a. Application sections not tabbed (Negative 5 Points),
- b. Amenities not highlighted on plans/drawings (Negative 5 Points),
- c. Each Threshold deficiency (Negative 2 Points).

***7.2 Tie Breakers***

In the event of a tie in the scores, the following Tie Breaking System will be used:

1. A development to be located in a qualified census tract shall take precedence over one that is not.
2. If all or none are located in a QCT, Applications will be ranked according to tax credits per unit favoring the development that requires the fewest tax credits per unit.



## **SECTION 8: THRESHOLD FACTORS**

This section of the Qualified Allocation Plan identifies those requirements (the "threshold factors") that each development must meet in order to be eligible for consideration of a tax credit award.

The Corporation shall only review application packages that satisfy the minimum scoring threshold of at least ninety-two (92) points for new construction developments and at least eighty (80) points for preservation developments for assurances that the applicant has satisfied these threshold requirements. If the applicant fails to satisfy the threshold requirements, the development will not be eligible for an allocation of tax credits. The five threshold factors are as follows:

### ***8.1 Threshold Phase I***

#### **1. Community Notification** (*This item is incurable*)

All applicants must hold a public hearing in the community in which they are planning to develop or rehabilitate a housing tax credit development. The hearing must be conducted by the owner, developer, or consultant who is directly involved with the proposed development and has a thorough understanding of the tax credit program. Additionally, they must present the drawings to be submitted to MHC for the public's review at the hearings. The applicants must adhere to the guidelines outlined below in order to proceed to Phase II of Threshold. Failure to comply with these guidelines will disqualify the application from further review.

##### **A. Public Notice Requirements**

1. Hearing must be held within the zip code or a 3 mile radius where the development is planned.
2. Applicants must first publish notice of such hearing in a local or regional newspaper having general circulation in the development area.
3. Must be published at least four (4) days, but no earlier than twenty (20) days prior to the public hearing.
4. The public hearing must be held at least fifteen (15) days prior to cycle opening date. If scheduled Monday through Friday, the hearings should be held between 5:30 p.m. and 9:00 p.m. to ensure that all interested parties can attend.

Additionally, applicants must post signage at the proposed site giving notice that a public hearing regarding the proposed development will be held that includes the owner's name, contact person, phone number, the date, time, and place of the hearing, and the fact that the applicant will be applying for housing tax credits. The sign must be at least 18" x 36", be fully visible from the street, and be posted by the date that the notice of public hearing is published in the newspaper.

**B. Local Government Notice**

The developer is required to notify the Mayor or President of the Board of Supervisors and councilperson, alderman and/or local supervisor for the district in which the proposed development will be located, in advance of the public hearing date. (e.g. For a city, the mayor and councilperson/alderman for the district in which the development is proposed to be located; for a county, the president of the Board of Supervisors and the supervisor for the district in which the proposed development is to be located).

The applicant must provide the Acknowledgement of Notice of Public Hearing form included in the QAP properly executed by the appropriate authorities. The form must be executed no later than the date the public hearing notice is run in the newspaper. In the event that an executed form cannot be obtained, the applicant must provide evidence of this notification by documentation of certified mailing to local officials.

**C. MHC Submission Requirements**

All applicants will be required to submit notification regarding the hearing to the Corporation. This notification should be faxed to the Corporation at (601) 968-0205 no later than the date the notice is published in the newspaper. MHC staff may attend the public hearings as an observer; however, MHC will not offer any comments in support or objection to the proposed developments.

Each applicant must submit:

1. Affidavit of Compliance with Community Notification
2. Proof of Publication of the Notice of Public Hearing,
3. Minutes of the Public Hearing,
4. A copy of the attendance roster,
5. A photograph of the signage required at the proposed site,
6. Acknowledgement of Notice of Public Hearing,
7. A written compilation of the comments received from the public hearing that includes the developer's responsive comments, and
8. A developer's statement as to how the concern(s), if any, will be addressed if tax credits are awarded to the development.

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## **8.2 Threshold Phase II**

1. **Site Control** *(At least one must be met with evidence provided with application.)*

A. Contracts

Applicants must provide one of the following types of documentation as evidence that it has control of the proposed site. The entity having control of the proposed site must be the same entity listed as the applicant, and the seller/lessor/optionee must be identifiable in any purchase, lease or option agreement. Also, site control documentation must clearly identify the physical location of the property (i.e. property address, full legal description or plat map identifying street names) and be consistent with the development information provided on the application form. Addendums to any of the contracts must be included or points will be deducted.

1. Fee simple ownership of the proposed development site evidenced by the warranty deed. The owner of the property must be in the application.
2. Lease of the proposed site development for a term meeting or exceeding the 30-year compliance period or for such longer period as the applicant represents in the application that the development will be held for occupancy by low income persons and families.
3. Right to acquire or lease the proposed site development by a valid and binding option or contract and the fee simple owner of the site, provided that such option or contract shall have no conditions within the discretion or control of the owner of the site. The option must be good for a total of one hundred eighty (180) days from the last day of the application cycle.
4. For acquisition and rehabilitation properties that are federally assisted and require a Transfer of Physical Assets (TPA) approval, documentation showing that a transfer request has been submitted must accompany the application in order to have a valid option/purchase contract. Applicant must provide a letter evidencing pending TPA approval from Rural Development (RD) or the local Housing and Urban Development's (HUD) state field office. The only allowable condition to obtaining such transfer approval will be that of obtaining housing tax credits.
5. For RD transfer properties, loan transfers/assumptions shall be evidenced by approval on Form RD 3560-1 (Rev. 02/05), "Application for Partial Release, Subordination or Consent" executed by the State Director or the Multi-Family Housing Program Director or their designee as evidence of final approval.

B. Ownership Structure

Certificate of partnership or corporation for the owner and general partner entities from the State of Mississippi or certificate to do business in the State of Mississippi, if applicable. Stamp filed copy (committal stamp) indicating the Secretary of State's approval must be provided. Additionally, applicants must provide a copy of the Business Structure detailing the principal members of the ownership entity.

**2. Local Zoning and Development Conditions** *(At least one must be met.)*

- Evidence of proper zoning or building permits for the proposed development.
- In the event that zoning and permitting requirements are not applicable to the site of the proposed development:
  - A letter from the local authorities to that effect, and
  - A letter from the utility providers verifying the availability of all requisite public utilities for the proposed development.
- For existing developments, an applicant may submit evidence of a building permit issuance or current documentation from the local authority indicating that building permits are not required in lieu of zoning documentation

The proposed development must be identified as zoned for its intended use as multifamily or single family housing. Documentation must be provided from the local governing authority where the proposed development will be located and dated within one (1) year of the date the application is submitted to MHC. The documentation must include the development's name, physical location (i.e. street address or nearest intersection), intended use, zoning code and description of what the zoning allows. All information must be consistent with the development information provided on the application form.

**3. Documentation of Need**

All applications (new construction and rehabilitation) must contain an independent third party market study. The market study must be recent (no more than one year old from the date of the application). The Market study must support the number of units identified in the application and provide consideration as to the total number of units the market will absorb should other developments be awarded tax credits in the same market area. All applications must also contain a statement of acceptance from the participating syndicator (*See Attachment 10*). Applicants are not prohibited from changing syndicators; however, a new statement of acceptance will be required from the subsequent syndicator in the event of a change from the initial application.

The market study must include the following items:

- Problem Definition
- Market Area Definition
- Physical/Location Analysis
- Economic Analysis
- Demographic Analysis
- Supply Analysis
- Demand Analysis
- Reconciliation of Supply and Demand
- Identify all housing tax credit developments approved within the previous five years of the study available on the Corporation's website at

www.mshomecorp.com, and those currently under construction in the market area, and describe those developments' rent levels and lease up experiences.

Please refer to the market study guide in this section for an explanation of the above-referenced items and the checklist that will be used to determine if the minimum standards have been met.

**4. Permanent Financing Commitment**

- Firm loan commitment letter's for permanent financing for the proposed development. The commitment must have a minimum 15 year term. The letter must not contain any material condition(s) with the exception of those listed below:
  - Obtaining 221(d)(4) guarantees;
  - Obtaining tax credits;
  - Final acquisition of site or land and building, as appropriate;
  - Complete drawings and/or specifications;
  - Firm cost estimates;
  - Appraisal;
  - Environmental review; and
  - All other conditions must receive prior approval from the Corporation at least ten (10) business days before submission of tax credit application.
- To be considered a firm commitment, the document must contain:
  - The verbiage, "***This is a firm commitment for construction/permanent financing of the referenced development.***"
  - The following items:
    - i. The term(s)
    - ii. Conditions
    - iii. Interest rate
    - iv. Disbursement conditions
    - v. Security requirements
    - vi. Repayment provisions
  - Must not be eligible for prepayment of the permanent mortgage prior to the end of the minimum fifteen (15) year compliance period. Refinances are permitted.
  - Must be executed by the lender and accepted by the ownership entity listed in the application form.
- For RD developments a copy of the loan commitment for interim financing. Form AD622 will not be accepted to satisfy permanent financing.
- For HUD financed properties involving a Transfer of Physical Assets (TPA), the application must contain written correspondence from the local agency's state field office which confirms that a transfer package has been submitted and pending approval. The only allowable condition to obtaining such transfer approval will be obtaining housing tax credits.

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- RD loan transfers/assumptions/ permanent financing shall be evidenced by approval on Form RD 3560-1 (Rev. 02/05), “Application for Partial Release, Subordination or Consent” executed by the State Director or Multi-Family Housing Program Director or their designee as evidence of final approval.

### **Additional Sources of Funding without firm commitments at Application**

Applicants that anticipate receiving an award of CDBG funds under Mississippi Development Authority’s (“MDA”) Public Housing Program must submit documentation that includes the amount of funds anticipated and how the proposed development meets the requirements of the Mississippi Development Authority’s Public Housing Program CDBG Disaster Recovery Action Plan Amendment 1, or any subsequent Amendments.

Applicants that anticipate receiving an award of other funding sources, such as HOME or Federal Home Loan Bank funds, must provide evidence that they have applied for such funding, including acknowledgement from the funding entity that the application has been received and of the amount requested.

Evidence of the award of any of these Additional Sources of Funding must be provided to the Corporation no later than the due date set out in the reservation package notifying the applicant of an award of Housing Tax Credits.

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## **SECTION 9: TAX CREDIT APPLICATION AND PRO-FORMA**

### ***9.1 Introduction***

A reservation of tax credits shall be commenced by filing an application with the Corporation, together with such documents and additional information as may be requested by the Corporation in order to comply with the Code and state law to make the reservation of the tax credits. The application shall include a breakdown of sources and uses of funds sufficiently detailed to enable the Corporation to ascertain where and what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. **PLEASE DO NOT INSERT ADDITIONAL PAGES WITHIN THE APPLICATION FORM.**

### ***9.2 Requirements***

Application form must be properly executed in order to be accepted as a valid application. (*See GPAG 1.1.9*) The following cost information must be included in the application:

- (1) Site acquisition cost,
- (2) Site preparation cost,
- (3) Construction cost,
- (4) Construction contingency,
- (5) General contractor's overhead and profit,
- (6) Architect and engineer's fees,
- (7) Permit and survey fees,
- (8) Insurance premiums,
- (9) Real estate taxes during construction,
- (10) Title and recording fees,
- (11) Construction period interest,
- (12) Financing fees,
- (13) Organizational costs,
- (14) Rent-up and marketing costs,
- (15) Accounting and auditing costs,
- (16) Working capital and operating deficit reserves,
- (17) Syndication and legal fees,
- (18) Developer's profit, and
- (19) All other costs identified in the application or required to complete the development.

### ***9.3 Development Pro-Forma***

The application shall include a development pro forma (see attached Appendix for document) setting forth the anticipated cash flows during a fifteen (15) year period. In addition, the application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies, which apply (or which the applicant expects to apply) with respect to each building or development. The Corporation may also require the submission of a legal opinion or other assurances satisfactory to the Corporation as to compliance of the proposed development with the Code.

## **SECTION 10: FINANCIAL FEASIBILITY STANDARDS**

### **10.1 Financial Evaluation Analysis**

The Internal Revenue Code (the "Code") precludes state allocating agencies, including the Corporation, from allocating credits to a development in any amount beyond that required for the financial feasibility of the development and its viability as a qualified affordable housing development throughout the compliance period.

To determine the level of allocable credits, the Corporation will perform a financial analysis on each application, utilizing the following factors:

1. Development costs, including developer fees;
2. Sources and uses of funds;
3. Development income and expenses; and
4. Development syndication proceeds.

The Code further requires the Corporation give priority to developments for which the highest percentage of housing credit dollar amount is to be used for development costs other than the cost of intermediaries, unless granting such priority would impede the development of developments in "hard-to-develop" areas which have been designated by the United States Department of Housing and Urban Development ("HUD").

Intermediary costs include, but are not limited to; developer fees, syndication fees, attorney fees, design professional fees, consultant fees, and organizational costs. The Act requires the allocating agency to evaluate intermediary costs at the time of evaluation. The Corporation will satisfy this statutory requirement by implementing a forty percent (40%) ceiling on the total percentage of intermediary costs as they relate to the total development cost of the development. If the total percentage of intermediary costs exceeds forty percent (40%), the Corporation will reduce the credit amount proportionally.

Based on its financial analysis, the Corporation will estimate the amount of tax credits it will reserve for each application. Should the development be approved for an allocation, the Corporation will advise the applicant in writing of the reservation and identify whatever additional criteria the development must satisfy in order to receive an allocation of tax credits.

In accordance with the Code, the Corporation gives preference in allocating the amount of tax credits among eligible developments to those developments (i) serving the lowest income tenants and (ii) obligated to serve qualified tenants for the longest period. The Corporation will conduct its financial analysis in accordance with these statutory requirements.

The Code requires the Corporation to conduct a second financial analysis at the time it actually allocates credits to each development and a third financial analysis at the time the development is placed in service.



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**10.2 Verification of Expenditures**

The Corporation has established a process for requiring and analyzing cost certifications for all developments as part of the final feasibility evaluation, prior to issuing an IRS Form 8609. As part of the analysis, the Corporation will ascertain the reasonableness of the cost components.

For all developments, the Corporation will require owners to submit for the agency's review an independent third-party CPA cost certification to be included with 8609 request package as a part of the final feasibility evaluation.

**10.3 Replacement Reserves**

Replacement reserves are required for all applications for tax credits. Contributions must be made to a reserve account. Reserves must be funded for the term of the loan of the senior lender. Additionally, the owner (at the end of the first year of the credit period and annually thereafter), must show evidence that Operating and Replacement reserve accounts have been established and funded in accordance with the guidelines of this Plan and of the Compliance Monitoring Plan. The following minimum contributions must be used:

- Rehabilitation (\$300 per unit)
- New Construction-Elderly (\$250 per unit)
- New Construction-Family (\$300 per unit)

Replacement reserves should be used only for capital improvements and system replacements and not used for general maintenance expenses. Capital improvements means improvements to the real estate, such as re-roofing, structural repairs, or major costs to replace or upgrade existing furnishings, but not including replacement of individual appliances or minor repairs. The cost of these capital improvements and system replacements should exceed \$5,000 for developments with 24 units or less and exceed \$10,000 for developments above 24 units. Replacement reserves must be shown on the pro forma and increase at a rate of four percent (4%) per year.

**10.4 Operating Reserves**

Operating reserves must be six months of the development's first year's operating expenses. Calculations of operating reserves include replacement reserves. Operating reserves must be listed as a cost item on the application form. Additionally, the operating reserves must be listed as a line item on the cost certification submitted with the 8609 request package.

These reserves must be maintained at a minimum until the 3<sup>rd</sup> year of the tax credit period following issuance of Forms 8609. After the third year, the developer may draw down that account and replace it with a Letter of Credit, agreed to by the syndicator in writing, to be maintained and kept valid throughout the remainder of the initial 15 year compliance period. In the event operating reserves are utilized for the development within the first three years of operation, a letter of credit should be put in place to satisfy the required reserve amount throughout the term.

***A development will not be considered financially feasible if the minimum replacement and operating reserves are not satisfied.***

**10.5 MHC'S Discretionary Eligible Basis Boost**

MHC will allow development-based DDA designation or high development costs to meet special needs populations (elderly, homeless, and disabled) and historic preservation for areas that are not currently a DDA. Applicants must request this consideration and define the need.

- **Land Cost Consideration**

A sales history of land sales, up to the date of the option/sales contract used in the application, must be included in the appraisal in accordance with current requirements of the Uniform Standards of Professional Appraisal Practice.

Acquisition of land at abnormally high cost, that provides additional specific benefits to the tenants residing in the developments (i.e. transportation, hospital, access for seniors) may justify the developments for the 30% (thirty) percent discretionary basis boost.

MHC will counsel with developers, at their request, up to ten (10) business days prior to the start of an application cycle as to whether or not the land qualifies the development for an additional basis boost for those developments not currently located in a QCT or DDA.

**10.6 Per Unit Cost**

In designing the Tax Credit program, Congress granted states the flexibility to respond to their unique and varied affordable housing needs and the responsibility to maximize the credit's use in producing significant numbers of affordable housing units. To that end, Congress carefully limited the portion of a development, which can be financed by Tax Credits. Congress recognized; however, that the cost of providing low income housing:

- Is frequently highest in areas of greatest need, such as inner city areas; where development is frequently most expensive and difficult;
- May involve construction of facilities to support special services to low-income tenants;
- May sometimes require higher wage rates for such construction than other developments due to state or federal law;
- In developments, which include Tax Credit units, might also include market rate units not financed by the credit.

Congress did not limit either the total amount of Tax Credits which can be allocated to a single development or the total cost of any development, including costs which are ineligible to be financed by the Tax Credit and are financed by other sources. However, Congress does require states administering the Tax Credit Program to give priority to developments which serve the lowest income tenants and which serve tenants for the longest period of time, without regard to

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the higher amounts of Tax Credits which might be required to finance developments meeting those needs. The cost of producing low income housing, particularly special needs housing and housing located in difficult-to-develop areas, requires states to balance financing the maximum possible number of units which might be produced, if high cost areas and developments were avoided, and targeting Tax Credits to areas and tenants of greatest need, as Congress has required.

In addition to carefully rationing the amount of Tax Credits allocated to eligible developments, as federal law requires, the Corporation has developed a per unit cost standard and expenses per unit standard based on total development costs, including those costs which may be substantial, that are part of the development but not eligible for Tax Credit financing and annual operating expenses. These standards and their justification requirements follow.

### **Determining Maximum Construction Cost (MCC) Per Unit**

In developing the maximum cost per unit standard, the Corporation has examined building construction and land costs in the state, including variations in such costs within the state. The Corporation has also examined statistical cost data on completed Tax Credit developments. This process has produced a standard which prescribes a single limit for Rural Development ("RD"), formerly Farmers Home Administration, developments applicable to the entire state and area limits for developments financed by other sources.

If the Corporation receives an application requesting an award of Tax Credits to a development with per unit cost in excess of its established limits for an area, then all factors that contributed to the excess per unit cost such as exceptionally high land costs, material costs, or special wage rates, are required to be disclosed and fully explained. Credits will be awarded to such developments only if (i) the review reveals that the additional costs are justifiable and reasonable under the circumstances, (ii) can be attributed to unique development characteristics (such as being located in a difficult-to-develop area, limited commercial space or tenant services or common areas essential to the character of the development) which are consistent with the housing needs and priorities identified herein, and (iii) are either attributable to costs which Congress has permitted the Tax Credit to finance or, if not, are financed by other means.

The Corporation will also consider on a "case by case" basis the costs of developments having (i) significant amenities, (ii) significant rehabilitation or construction costs, (iii) significant acquisition and rehabilitation of a historical property, and (iv) having tangibly increased material and or labor costs.

**If the Development's Cost Per Unit exceeds the calculated Maximum Construction Cost (MCC) Per Unit, justification must be certified by an architect. Excessive Land Development costs must be certified by an engineer. Otherwise, the development will not be given consideration of its increased costs.**

***REMINDER:** General Policy and Guideline 1.6.1 states, "Tax credit applications whose costs exceed the Corporation's maximum construction cost per unit as outlined in the QAP must provide detailed supporting documentation from the development's engineer and/or architect.*

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*Costs that exceed the maximum construction cost per unit by \$10,000/> must submit cost justification to the Corporation for review and approval at least ten (10) working days prior to the start of an application cycle. Failure to receive prior approval will disqualify the application from consideration. The Corporation may limit the allowable tax credit allocation to these applications exceeding MHC's calculated maximum construction cost per unit."*

*See Attachment FF-1: Maximum Construction Cost (MCC) Per Unit Certification*

### **10.7 Maximum Administrative Expenses (MAE) Per Unit**

In developing the maximum administrative expense per unit standard, the Corporation examined statistical cost data on completed Tax Credit developments to determine the applicable administrative management fees to be charged to a development. This information was used by the Corporation to develop a formula for calculating the maximum administrative expenses per unit (Annual Operating Expense).

If the Corporation receives an application for the award of Tax Credits to a development with maximum administrative expenses per unit cost in excess of the established limits for an area, all factors that contributed to the excess administrative per unit cost such as exceptionally high real estate taxes, insurance costs, maintenance reserves, or replacement reserves, are required to be disclosed and fully explained in the justification for the application. Justification regarding excessive maximum expense per unit should be provided by a certified public accountant. Credits will be awarded to such developments only if the review reveals that the additional expenses are justifiable and reasonable under the circumstances and can be attributed to unique development requirements which are consistent with the housing needs and priorities identified herein. The Corporation will consider developments meeting this criterion on a "case by case" basis. The Corporation shall have the sole authority in determining review of "case by case" developments.

The Corporation will consider on a "case by case" basis the maximum annual operating expenses of developments having (i) significant amenities, (ii) significant provision(s) for social services, and (iii) significant costs related to local market conditions (i.e. real estate taxes, utility costs, requirement of security, etc.).

In addition to a maximum expense per unit, the Corporation will require a minimum expense per unit of \$2,700. If a development fails to meet the minimum expense per unit, the development will not be considered financially feasible for an allocation of tax credits.

**If the Development's Expense Per Unit exceeds the calculated Maximum Administrative Expense Per Unit (MAE), justification must be provided by a Certified Public Accountant. The minimum expense per unit must be maintained throughout the compliance period; otherwise, the development will not be considered financially feasible for Tax Credits.**

*See Attachment FF-2: Maximum Administrative Expenses (MAE) Per Unit Certification*

### **10.8 Developer Fees**

The Corporation will allow a base fee of fifteen percent (15%) of the development's construction costs, including builder's profit, for developer's fees, which includes developer's overhead and consultant fees. This base fee may be increased dependent upon a development meeting the criteria below. The Corporation will permit a flat developer fee of ten percent (10%) on the development's allowable acquisition cost.

- Development size - The smaller the development size, the higher the fee would be as a percentage of development costs.
- Development characteristics - Certain developments may be allowed higher developer fees as an incentive to produce hard-to-develop or socially desirable developments, such as homeless housing, single room occupancy housing, and scattered site developments.
- Development location - Higher developer fees may be allowed for developments developed in difficult-to-develop areas.

The developer's fee is intended to compensate for staff time, entrepreneurial effort and risk involved in development of the development including payments or fees paid to the developer, overhead, and profit. In reviewing applications for financial feasibility, the Corporation does not anticipate allowing developer fees to exceed that percentage and must, in any event, give priority to those developments with the lowest intermediary costs.

A developer may defer a portion of their developer's fee in an effort to satisfy an additional equity requirement. If a developer elects to defer any portion of the developer's fee, a Developer's Note outlining the terms and conditions of the deferred portion must accompany the application. Prior to receiving Forms 8609, MHC must receive a revised Developer's Note, along with a statement of authorization from the participating syndicator indicating that the deferred portion is acceptable and allowable in eligible basis.

*See Attachment FF-3: Maximum Developer Profit Percentage (MDPP) Certification*

### **10.9 Consultant Fees**

The Corporation has determined that there is no uniform definition or treatment of "consultant fee" among the State Allocating Agencies. Additionally, there is evidence that the total amount of consultant fees is particularly high in developments with nonprofit sponsors and developers, leading to higher per unit costs for those developments.

The Corporation has determined that for allocation purposes the definition of consultant fees include the following:

- Those professional fees (such as for architects and engineers), which would be reimbursable through the Tax Credit.

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- Excludes costs properly allocated to and payable by the syndicator (such as SEC registration and sales commissions), and
- Consultant fees, other than the professional fees set forth above are permitted only within the developer fee limit.

The Corporation makes no distinctions between for-profit and nonprofit developers for the purposes of determining the appropriate level of consultant fees.

### **10.10 Limits on Builder or General Contractor Charges**

The Corporation has also determined the allowable limits on builder or general contractor charges for tax credit developments. The Allocation Plan outlines these limits as follows:

- Builder's profit - six percent (6%) of construction costs;
- Builder's overhead - two percent (2%) of construction costs; and,
- General requirements - six percent (6%) of construction costs.

Amounts in excess of the subject limits will be considered excessive.

### **10.11 Debt Service Underwriting Criteria**

Maximum Supportable Mortgage (During the *initial* 15 year compliance period):

A development whose fifteen (15) year average net cash flow exceeds the debt service beyond the acceptable range of 1:1.15 to 1:1.30 must, at the time of reservation, either:

- (a) Obtain a higher permanent mortgage supported by a debt service coverage within the acceptable range, or
- (b) Reduce the rents that would be charged to the tenants.

*A development is not considered feasible for tax credits if the average debt service coverage ratio does not fall within the acceptable range. The minimum debt service ratio will be enforced.*

*See Attachment FF-5: Debt Service Underwriting Criteria*

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Native American Housing Assistance and Self-Determination Act (NAHASDA): The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) assistance is not taken into account in determining whether a building is federally subsidized for purposes of tax credits. Such buildings may qualify for up to nine percent (9%) credits provided that deeper targeting rules consistent with special targeting for HOME financed developments are followed.

## **SECTION 11: LIMITATIONS**

The Tax Reform Act of 1986 charges the Corporation to allocate only that amount of tax credits to a development as required to make the development economically feasible. The Corporation's determination is made solely at its discretion and in no way constitutes a representation or warranty, expressed or implied, to any sponsor, lender, investor, or third party as to the feasibility of a given development. By allocating tax credits to a development, the Corporation makes no representation or warranty, expressed or implied, to the development owner, investors, lender, or third party that its allocation constitutes a determination that the development adheres to requirements of the Internal Revenue Code, relevant Treasury regulations, or any other laws or requirements governing the tax credit program.

The Corporation may amend the Qualified Allocation Plan and its Housing Tax Credit Program as required by the promulgation or amendment of the Regulations and to meet the public purpose policies of the Corporation, from time to time. Such amendment is expressly permitted by the Qualified Allocation Plan, and the making of such amendment will not require further public hearings.

The Corporation will develop a Compliance Monitoring Plan in accordance with the Qualified Allocation Plan for compliance and monitoring of developments having received an allocation of Housing Tax Credits.

No Corporation member, employee, or agent shall be personally liable with respect to any matter or matters arising out of, or in relation to, the Tax Credit Program.



**SECTION 12: IDENTITY OF INTEREST**

The Corporation will require in its Tax Credit application that a developer identify the existence of an identity of interest with another party to the development and take such identity of interest into consideration in determining maximum fees. Identity of interest must be disclosed whether the interest is indicated between the buyer/seller and/or developer/builder. Where there is an identity of interest between the buyer and seller, the sale must be an "arms length" transaction with acquisition costs supported by a certified appraisal. Where there is an identity of interest between the developer and builder, profit cannot exceed the maximum developer's profit and builder's combined.

## **SECTION 13: DESIGN QUALITY STANDARDS**

### **MISSISSIPPI HOME CORPORATION (MHC) MINIMUM DESIGN, DEVELOPMENT & MATERIALS STANDARDS SINGLE FAMILY UNITS & APARTMENT UNIT PLAN DESIGNS**

The purpose of the Mississippi Home Corp Architectural Review is to determine if a development meets the Agency's recommended architectural standards. When the final plans and specifications are submitted, the Architect shall include a statement that the development has met the minimum criteria. At the completion of construction, the Architect shall certify that the development has complied with all the minimum requirements. **FAILURE TO COMPLY WITH THE MINIMUM STANDARDS WILL RESULT IN A LOSS OF CREDITS.**

#### **MINIMUM DESIGN STANDARDS**

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##### **UNIT LIVABILITY:**

The long-term marketability of apartment units is affected not only by their sizes but also by the livability of the units. One important functional component of livability is the ability of the space to accommodate the potential number of occupants and the basic pieces of common furniture necessary for daily activities. A well thought-out furniture plan may reveal conflicts in the unit layout which are not otherwise obvious. Please provide typical unit plans at 1/4 scale.

##### **OVERALL SINGLE FAMILY REQUIREMENTS**

1. The minimum heated/cooled area for a single family detached three bedroom/two bath home will be 1,300 square feet. The minimum heated/cooled area for a single family detached four bedroom/two bath home will be 1,700 square feet.
2. Average lot sizes of no less than 7,500 square feet (single family detached).
3. At least eighty percent (80%) of the home's exterior being brick or equivalent surface, i.e. Hardiboard or similar cement composite board.
4. Master bedrooms should be at least 12'x14' (13'x15' is preferred)
5. Secondary bedrooms should be at least 10'x10' (11'x12' is preferred).
6. The minimum requirement is a two-car carport. The minimum dimensions for two cars should be 20'x21' (inside face of stud to face of stud). A minimum of 50 sq.ft. of enclosed storage is required.
7. Owner shall provide a maintenance schedule of items to be replaced prior to the purchase of the units by the Tenant.
8. Paved driveways.
9. Entrance Appeal (Provide adequate entrance signage with landscaping)
10. Side by side washer and dryer connections.
11. Landscape Plan and Maintenance (Applicants shall maintain lawns and landscaping throughout the required compliance period.)
12. Architectural Shingles for roofs.

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13. Development note: provide curb & gutter with sidewalks (4' min width) and underground utilities in new communities. Scattered lot developments should conform to existing standards of surrounding development.
14. Along with the primary "street" or front elevation, provide (2) additional elevations for each plan as well as mirror image of each. These elevations should be spread throughout the development to create variation in the street scene as well as future value.

### **THE FOLLOWING GUIDELINES APPLY TO SINGLE FAMILY UNITS & APARTMENT DEVELOPMENTS:**

#### **KITCHEN**

1. Kitchen cabinets and appliance space required at 16 lineal feet for 2 & 3 bedroom units with the addition of a pantry for larger units. Utilize 16 clear counter space on one side of each appliance and fixture and a minimum of 9" on the opposite side of a range.

#### **CLOSETS**

1. Minimum of 12 lineal feet of closet rod in master bedroom and 5 lineal feet in other bedrooms.
2. Entry coat closet and linen closet in multiple bedroom units, if possible.

#### **CEILINGS & HALLWAYS**

1. Hallways must be a minimum of 3'4" in width (measured from face of stud to face of stud). This will accommodate a 2'8" door and allow for wheelchair access as well as moving furniture without damage to walls.
2. 9' Ceiling heights. This will conform to current market rate standards.

#### **BATHROOMS**

1. Secondary baths must have at least one door that is 2'8". This allows for wheel chair access (Fair Housing standard).

#### **COMMON AREAS**

1. Community/Recreation facility will be a minimum of 1,200 square feet or 20 sq ft per unit for family; whichever is greater. The facility will include a community kitchen, sink, refrigerator and range or microwave. Management office will be no less than 100 sq ft.
2. Maintenance workshop and storage room that provides a workbench, sink and shelving area.
3. Common area laundry room when washers/dryers are not provided in the units. The common laundry room must provide 1 washer/dryer per 12 family units.
4. Elevators are required in developments that provide for senior housing and special needs.
5. Exterior trash enclosures should have enclosure protection and a nearby hose bib; for Multi-Family developments or for those developments located in areas where services are not provided by local municipalities.
6. Playgrounds, Community Centers and Mail Kiosks should have sufficient separation as to provide safety for the children and minimize traffic congestion for the various functions.

**ENERGY EFFICIENCY / GREEN (SUSTAINABLE) DESIGN**

1. Use of all Energy Star rated appliances.
2. Use of low or zero V.O.C. (Volatile Organic Compounds) interior paints.
3. Use of Formaldehyde-free insulation
4. Use of at least of one (1) high efficiency toilet or dual flush per unit.
5. Use of double glazed, insulated energy efficient windows, with Low-E glazing and a minimum: U factor of .55, Heat Gain Coefficient of .29 and Visibility Transfer of .52
6. Use of alternate, high efficient H.V.A.C. sources and delivery systems (14 SEER).
7. Use of water efficient landscape plants
8. Use of efficient, compact site design (when local codes allow).
9. Use of Gutters and downspouts at eaves less than 12" on 1 story and less than 24" on 2<sup>nd</sup> level. Downspouts to underground drain system or concrete splash blocks or hard surface required.
10. Use of PEX Manifold (Mani block) plumbing systems for domestic water if locality approves.
11. Use of Day-lighting. Day-lighting includes strategies for increasing the percentage of illumination provided by natural light by optimizing building orientation and room layout.

**SITE ACCESSIBILITY**

1. Accessible path to the primary entry of all ground floor units
2. Identify all common area facilities on an accessible path (show walkways slope and landing dimensions at ramps, accessible parking spaces. van stall location, and trash enclosures)

Note: The development must be designed in accordance with all applicable handicapped accessibility requirements. In particular, it should be noted that if the project also receives funding from a federal source, federal laws governing accessibility may apply.

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### **Overall Impact**

Avoid letting garages, driveways dominate the streetscape – more specifically in Traditional Neighborhoods or Compact Sites. Consider placing them at the rear or side of the site to allow a majority of dwelling units to "front on" the street. A mix of both front loaded and rear garages provides "character" in the development. Consider planting trees and shrubs to soften the overall impact and provide shade and noise reduction.

### **Vehicle/Pedestrian Interaction**

Design to minimize conflicts between vehicles and pedestrians. Consider separating bicycle and pedestrian paths from vehicular traffic. Consider linking open spaces so that they form an uninterrupted network of vehicle-free areas. Consider traffic calming strategies to slow down cars within the development.

### **Adequate Size**

Ensure that private open space is large enough so that it can actually be used. Avoid spaces, particularly balconies, decks and porches that are too narrow to accommodate furniture.

### **Nighttime Lighting**

Consider a lighting plan for shared open spaces that provides light from a variety of sources. Match lighting intensity and quality to the use for which it is intended; i.e. the lighting required for a pedestrian path is substantially different from that required to illuminate streets. Avoid lighting which shines directly into dwelling units or is overly intense and bright. Consider light fixtures which minimize overall light "pollution;" i.e. fixtures with shields which prevent lighting the nighttime sky. Consider energy efficient lighting whenever possible.

### **Landscaping is not a Secondary Consideration**

Good landscaping is critical to the quality of any development. Consider how landscaping and planting will be handled from the very beginning of the design process. Avoid considering landscaping as an "extra" that can be added in at the end of the development or, worse, eliminated in the name of cost control.

### **Building Scale and Massing**

Relate the size and bulk of the new structure to the prevalent scale in other buildings in the immediate neighborhood.

### **Building Form**

Consider utilizing a variety of building forms and roof shapes rather than box-like forms with large, unvaried roofs. Consider how the building can be efficiently manipulated to create clusters of units, including variations in height, setback and roof shape. Make sure various forms and shapes work together to create a coherent whole.

**Image**

Avoid creating a building that looks strange or out of place in its neighborhood. Consider a building image that fits in with the image of good quality market rate housing in the community where the development is located.

**Visual Complexity**

Consider providing as much visual and architectural complexity as possible to the building's appearance while maintaining a hierarchy of scale and a unified overall form. Consider breaking a large building into smaller units or clusters. Consider variations in height, color, setback, materials, texture, trim, and roof shape. Consider variations in the shape and placement of windows and other façade elements. Consider using landscape elements to add variety and differentiate homes from each other; more specifically in Traditional Neighborhoods.

**Facade**

Relate the character of the new building façade to the façades of similar, good quality homes in the surrounding neighborhood or region. The minimum roof pitch will not be less than 6/12 (7/12 or greater is preferred). Horizontal buildings can be made to relate to more vertical adjacent structures by breaking the façade into smaller components that individually appear more vertical.

**Trim and Details**

Trim and details can provide warmth and character to a building's appearance, particularly on street facades. In general, the complexity, depth and proportion of trim should relate to that used in good quality middle-income housing in surrounding neighborhoods. Carefully consider the design of porch and stair railings, fascia boards, corners, and areas where vertical and horizontal surfaces meet - for example where a wall meets the roof. Generally put trim around windows. Consider adding simple pieces of trim to the top and bottom of porch columns. Vary the dimension from an eve (18' minimum) and a rake (4' minimum) detail.

**Materials and Color**

Creative use of materials and color can add variety and visual interest to any façade. In general, consider materials and colors - for the façade (including foundation walls) and for the roof - that are compatible with those in similar, good quality buildings in the surrounding neighborhood or region. Avoid introducing drastically different colors and materials than those of the surrounding area. Consider using materials and construction details that do not require repeated or expensive maintenance. Favor materials that residents can easily maintain themselves after the homes complete the compliance period. Consider using materials with high levels of recycled content or "Green" where possible.

**Room Relationships**

Unit layout and room organization will be partly determined by the homes, orientation and location on the site and user profile. Consider activities and behaviors in each space to allow adequate room and durable materials for these activities. Create a clear separation of the private sleeping areas from the less private living areas. Avoid excessive circulation space.

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### **Room Design**

Consider how individual rooms will be used. Test furniture arrangements, outlet, telephone, cable jack, and light fixture locations to ensure that all rooms can be reasonably furnished. Consider partly enclosing kitchen to allow flexibility in dining/living room use. The master bedroom should have a private bath in homes with three or more bedrooms; other bedrooms will share bathrooms. Consider how rooms can be arranged to accommodate working at home.

### **Daylight and Ventilation**

Access to natural light in all bedrooms and the living room is essential and cross ventilation throughout the unit is encouraged. Consider layouts that allow natural light to the kitchen and allow the natural ventilation and lighting of bathrooms.

### **Storage Space**

Provide as much interior storage space as possible (this includes access to attic storage as well). At a minimum provide an amount of bulk storage commensurate with the size of the home and the number and ages of residents it is expected to accommodate, including: coat closets in the entry area, large closets in the bedrooms, linen closets, pantry spaces in or near the kitchen, and exterior storage rooms (see #6 under Room Design). Assume two occupants per bedroom for storage purposes.

### **Materials**

Avoid materials that require frequent maintenance, especially by specialists. Consider materials that residents can maintain themselves. Provide floor coverings appropriate to use in room - generally use resilient flooring in kitchens, bathroom, laundries, dining rooms and entries. Consider "healthy" building materials for interior finishes and materials, and when selecting carpet, resilient flooring, paint, glues, cabinets, etc... Evaluate selection of materials in terms of lifecycle and environmental cost.

### **Build it to Last**

Inexpensive, low quality, materials can make any development look "cheap." Quality materials and finishes, on the other hand, contribute to the longevity of a development and to its ability to appreciate - not depreciate in value. They also make a development easier to maintain, potentially reducing operating costs.

"Building in" energy and environmental efficiency - through better windows, insulation and equipment - reduces operating costs over the life of the building.

While recommending doing everything possible to include high quality materials and finishes, we also recognize that affordable housing developments usually face severe cost constraints. Not every product or system can be top of the line. In these circumstances, consider favoring exterior materials and finishes over interior ones when making tradeoffs. Likewise, consider favoring products and systems which are permanent and hard to replace over those that the occupant can replace.

Ultimately, the over-riding goal is to construct the dwelling units with methods and materials in order to provide a minimum service life of 50, preferably 75 years.

## **SECTION 14: DEVELOPMENT REPORTING STANDARDS**

The Corporation will consistently monitor the status of all funded developments. The Allocation division will require various reports be completed. Developers will be responsible for submitting the following reports at the appointed times. *Please see chart below.*

### **Development Reporting Deadlines**

<b>Type of Report</b>		<b>Deadline</b>
1	Initial Status Report	90 days after Reservation Letter Date
2	Quarterly Construction Status Report	March 31
		June 30
		September 30
		December 31
3	15-Month (50% Completion) Certification	15-months after reservation letter date

#### ***14.1 Initial Status Report***

This report is collected from all developments that recently received a reservation letter for an initial award of Housing Tax Credits. This form will be completed 90-days after the award of tax credits.

#### ***14.2 Quarterly Construction Status Report (QCSR)***

This form will be completed on a quarterly basis until the Owner reports that the development has been placed in service and provides copies of the Certificates of Occupancy or Certificate of Substantial Completion. The owner must submit the reports as outlined on the development reporting chart above.

#### ***14.3 50% Completion Certification***

For new construction developments, an additional fee of 1.25% of the first five years' allocation of credit will be assessed to a developer if certification that at least fifty percent (50%) of construction of the total development has been completed is not received from a certified architect or engineer within fifteen (15) months of the tax credit reservation date. An MHC inspection of the development site should clearly evidence that at least fifty percent (50%) of construction of the total development receiving tax credits has been completed to include, but not limited to: site work, foundation, framing, roofing, etc.



**2009 Qualified Allocation Plan****Adopted: January 5, 2009**

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For rehabilitation developments, an additional fee of 1.25% of the first five years' allocation of credit will be assessed to a developer if certification that at least fifty percent (50%) of proposed rehabilitation of the total development has been completed is not received from a certified architect or engineer within fifteen (15) months of the tax credit reservation date. An MHC inspection of the development site should clearly evidence that at least fifty percent (50%) of proposed rehabilitation of the total development receiving tax credits has been completed.

If the 50% deadline was missed and/or approval for an extension was granted, the developer should submit the proper paperwork upon accomplishing 50% completion by way of certification from the architect/engineer.

Development Number: \_\_\_\_\_

Development Name: \_\_\_\_\_

Development Location: \_\_\_\_\_

	Date Submitted	Items to be Submitted
(1)		<b>Copy of the final Syndication / Partnership Agreement</b>
(2)		<b>Certification of Syndication of Development Form</b> This form must be properly executed (i.e. Signed and Notarized)
(3)		<b>Independent Cost Certification</b> The Final Cost Certification must be certified by a CPA.
(4)		<b>Source of Funds Form</b> Include documentation for <b>all</b> funding sources listed. Financing documents must be executed by all parties.
(5)		<b>Development Unit Mix Form</b> Include current Utility Allowance Information.
(6)		<b>Current 15-Year Development Pro-Forma</b> Must use the Income, Expense and vacancy rate percentages listed in the QAP under which the development received credits.
(7)		<b>Certificate of Completion or Occupancy</b> A certificate of completion or occupancy is required for each building or one certificate for the entire development.
(8)		<b>Building Unit Set Up Form</b> To be completed for each residential building.
(9)		<b>Development Composition Form</b>
(10)		<b>Filed Copy of the Declaration of Land Use Restrictive Covenant</b> This document must have the book and page information with all supplemental attachments.
(11)		<b>Copy of Final Appraisal</b>
<b><u>For Tax Exempt Bond Developments</u></b>		
The following information must be included along with the above items.		
(12)		<b>Owner Tax ID</b> Information from the IRS must accompany your request package showing the Tax Id Number for the Ownership entity.
(13)		<b>50% Aggregate Basis Opinion Letter from CPA</b> An opinion letter from a CPA certifying that 50% or greater of the Aggregate Basis is financed by tax -exempt bonds.

MISSISSIPPI HOME CORPORATION  
Housing Tax Credit Program  
**Certification of Syndication of Development**

Development No. \_\_\_\_\_

Development Name \_\_\_\_\_

Development Location \_\_\_\_\_

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This certificate is made pursuant to the provisions of the Qualified Allocation Plan dated \_\_\_\_\_.

I certify that the syndication proceeds applicable to this development are as follows:

Gross syndication proceeds \$ \_\_\_\_\_

Net proceeds to the development \$ \_\_\_\_\_

Cents per dollar amount received  
from the sale of tax credits \$ \_\_\_\_\_

\_\_\_\_\_  
**Syndicator**

\_\_\_\_\_  
**Owner**

**By** \_\_\_\_\_

**By** \_\_\_\_\_

**Its** \_\_\_\_\_

**Its** \_\_\_\_\_

**Date** \_\_\_\_\_

**Date** \_\_\_\_\_

**STATE OF** \_\_\_\_\_

**COUNTY OF** \_\_\_\_\_

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_ as **Owner** of \_\_\_\_\_ signed the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of this document, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

## **Mississippi Home Corporation HTC Program Cost Certification Guidelines**

### **I. General**

These guidelines are designed to assist owners, contractors, and independent certified public accountants in the preparation and submission of cost certification forms to the Mississippi Home Corporation's Housing Tax Credit Program.

The purpose of the cost certification is to establish the total costs incurred by the contractor and the owner in the development of a property. This will enable the Corporation to determine certain development costs and the amount of tax credits to be allocated to the development. All costs included in the calculation of the total development costs; however, not all such costs are necessarily recognizable in determining the eligible basis and the amount of credits to be allocated.

The owner is obligated to submit the cost certifications applicable to itself and the contractor prior to issuance of IRS Form 8609.

The owner's certified costs generally should include all costs to finance and construct the development, whether or not they are includable in eligible basis. The costs to syndicate or otherwise sell interest in the development must be included with the owner's certification. If any estimates are included in the owner's cost certification they must be identified as such.

The Corporation reserves the right to exclude from eligible basis part of any line item of expense when the amount is so high as to be out-of-line with reasonable and necessary costs for the services performed or the item supplied. In such cases, the amount allowed will be the Corporation's estimate of the "reasonable and necessary" amounts as compared with comparable developments in similar areas. All expenditures must be reduced by the amounts of any kickbacks, rebates, allowances, trade discounts or other sums that the owner or the sponsor has received or is to receive.

### **II. Identity of Interest Cases**

#### **A. Subcontractors and General Contractors with an Identity of Interest with the General Contractor or Owner**

If an identity of interest exists between the sponsor and the general contractor, incentive fees may only be paid to the extent that they are included in the fee limitations outlined below. A general contractor may act as a subcontractor and may be entitled to additional overhead and profit otherwise payable to an independent subcontractor.

However, the general contractor's overhead is limited to 2% of the construction contract; contractor's profit is limited to 6% of the construction contract; and general requirements is limited to 6% of the construction contract

## B. Subcontractors Acting as General Contractors

General contractor's profit, also called builder's profit, is limited to 6% of the construction contract. General contractor's overhead, also called builder's overhead is limited to 2% of the construction contract. If a subcontractor acts in the role of a general contractor, profit and fees are limited to 6% of the construction contract

## III. Opinion of Certified Public Accountant

Each certificate must be accompanied by the unqualified opinion of an independent certified public accountant. When there is an identity of interest between two or more of the parties of whom costs certification is required, certification of the parties having such identity of interest must be by the same certified public accountant.

The independent certified public accountant is required to examine the applicable books and records to the extent necessary to satisfy him/herself that the amounts claimed as costs are within the scope of the above-noted descriptions and are ordinary and necessary expenses appropriate to the development. If the accountant has any questions concerning the appropriateness of any item, or the amount, or desires any assistance in the interpretation of technical matters relating to construction which are not covered in this guide, he/she may seek assistance in such interpretation from representatives of the Corporation.

Inclusion in the opinion of any language, indicating that the independent certifying accountant has any reservations as to the amount or propriety of the actual costs as set forth in the certificates of costs will make the certification unacceptable to the Corporation.

The Corporation reserves the right to determine whether or not the certifications of actual costs received are satisfactory to the Corporation.

The following sample letter, containing the minimum representations acceptable to the Corporation, is suggested to the certifying independent accountant:

**MODEL FINAL COST CERTIFICATION LETTER**  
Independent Auditor's Report

Katina C. Pace  
Vice President of Tax Credits  
Mississippi Home Corporation  
P.O. Box 23369  
Jackson, MS 39225-3369

RE: Owners Name: XXXX  
Development Name: XXXX  
Development Number: TCAA#XX-XXX

Dear Mrs. Pace:

We have audited the costs included in the accompanying Tax Credit Allocation Agency ("TCAA") Final Cost Certification (the "Final Cost Certification") of XXXX, L.P. (the "Owner") for XXXX (the "Development") as of XXXX XX, 200\_. The Final Cost Certification is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on the Final Cost Certification based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Final Cost Certification is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Final Cost Certification. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall Final Cost Certification presentation. We believe that our audit provides a reasonable basis for our opinion.

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

In our opinion, the Final Cost Certification presents fairly, in all material respects, the actual costs of \$XXXX and eligible basis of \$XXXX of the Owner for the Development as of XXXX XX, 200\_, on the basis of accounting described above.

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

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

City, State  
XXXX XX, 200\_

**MISSISSIPPI HOME CORPORATION  
HOUSING TAX CREDIT PROGRAM  
OWNER'S CERTIFICATE OF ACTUAL COST**

Development Number: \_\_\_\_\_

Development Name: \_\_\_\_\_

Development Location: \_\_\_\_\_

This certificate is made pursuant to the provisions of the Qualified Allocation Plan dated \_\_\_\_\_. The cut-off date used for calculation of interest, taxes and insurance during construction is \_\_\_\_\_.

The actual cost to the owner of labor and materials and necessary services for the construction of the physical improvements in connection with the subject development, after deduction of all kickbacks, rebates, adjustments discounts made or to be made to the mortgagor, sponsor or any corporation, trust, partnership, joint venture or other legal entity in which they or any of them hold any interest, is as follows:

ITEM	ACTUAL COST	ELIGIBLE BASIS
Acquisition Total	_____	_____
Builder's Profit	_____	_____
Construction/Rehabilitation Total	_____	_____
Architectural Fees Total	_____	_____
Survey Engineering Total	_____	_____
Permanent Financing Fees Total	_____	_____
Construction Loan Int. & Fees Total	_____	_____
Closing Cost, Legal & Bond Total	_____	_____
Appraisal	_____	_____
Reserves Total	_____	_____
Developer Overhead	_____	_____
Developer Profit	_____	_____
Land	_____	_____
Syndication Cost Total	_____	_____
Other Costs	_____	_____
Market Study	_____	_____
Environment Report	_____	_____
Tax Credit Fees	_____	_____
Other Costs Total	_____	_____
<b>Total Cost</b>	_____	_____
Amount of Permanent Mortgage Loan	_____	_____
Other Non-Tax Credit Equity Funding Sources	_____	_____

**NOTE:** This certificate must be supported by certification as to actual cost by an independent certified public accountant.

The undersigned hereby certifies that: (cross out inapplicable language) There (has/has not) been and is not now any identity of interest between ourselves on the one hand and the general contractor or any subcontractor, material supplier or equipment lessor on the other. Attached to and made a part of this certificate is a signed statement fully describing any identities of interest is set forth in the previous paragraph.

\_\_\_\_\_  
Owner

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_



**MISSISSIPPI HOME CORPORATION  
HOUSING TAX CREDIT PROGRAM  
CONTRACTOR'S CERTIFICATE OF ACTUAL COST**

Development Number: \_\_\_\_\_

Development Name: \_\_\_\_\_

Development Location: \_\_\_\_\_

This certificate is made pursuant to the provisions of the construction contract entered into by and between owners and contractor under date of \_\_\_\_\_, and it is understood and agreed by the undersigned that this certificate is to be submitted to the Mississippi Home Corporation.

The actual cost incurred in the completion of construction under the above construction contract and accepted construction changes, inclusive of all kickbacks, rebates, adjustments and discounts or any other devices having the effect of increasing the true actual costs is itemized below.

TRADE ITEM	AMOUNT	PAYEE
Concrete	\$ _____	_____
Masonry	\$ _____	_____
Metals	\$ _____	_____
Rought Carpentry	\$ _____	_____
Finish Carpentry	\$ _____	_____
Waterproofing	\$ _____	_____
Insulation	\$ _____	_____
Roofgin	\$ _____	_____
Sheet Metal	\$ _____	_____
Doors	\$ _____	_____
Windows	\$ _____	_____
Glass	\$ _____	_____
Lath & Plaster	\$ _____	_____
Drywall	\$ _____	_____
Tile Work	\$ _____	_____
Acoustical	\$ _____	_____
Wood Flooring	\$ _____	_____
Painting and Decorating	\$ _____	_____
Specialties	\$ _____	_____
Special Equipment	\$ _____	_____
Cabinets	\$ _____	_____
Appliances	\$ _____	_____
Blinds / Shades / Artwork	\$ _____	_____
Carpets	\$ _____	_____
Special Construction	\$ _____	_____

MISSISSIPPI HOME CORPORATION  
HOUSING TAX CREDIT PROGRAM  
IRS Form 8609 Request Package Checklist

TRADE ITEM	AMOUNT	PAYEE
Elevators	\$	
Plumbing and Hot Water	\$	
Heat and Ventilation	\$	
Air Conditioning	\$	
Electrical	\$	
Accessory Structures	\$	
Earthwork	\$	
Site Utilities	\$	
Roads and Walks	\$	
Site Improvements	\$	
Unusual Site Conditions	\$	
Lawns and Plantings	\$	
General Requirements	\$	
General Overhead	\$	
Miscellaneous Labor / Materials	\$	
Other Contractor Fees	\$	
TOTAL COST	\$	

The undersigned hereby certifies that: (cross out inapplicable language) There (has/has not) been and is not now any identity of interest between ourselves on the one hand and the general contractor or any subcontractor, material supplier or equipment lessor on the other. Attached to and made a part of this certificate is a signed statement fully describing any identities of interest is set forth in the previous paragraph.

All amounts shown have been reduced to give effect to the amount(s) of any kickbacks, rebates, adjustments, discounts (except as allowed in the Cost Certification Guidelines), or any other devices which, if included, would have the effect of overstating the actual costs.

\_\_\_\_\_  
Contractor

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_

**NOTE:** This certificate must be supported by a certification as to actual cost by an independent certified public accountant. 60

**MISSISSIPPI HOME CORPORATION**

**Housing Tax Credit Program**

**Source of Funds**

Development Name\_\_\_\_\_

Development No.\_\_\_\_\_

Permanent Financing: List all sources of funds for the development at closing. (Do not include construction financing or anticipated syndication proceeds.)

Source of Funds	Amount of Funds	Annual Debt Service Cost	Int. Rate of Loan	Term of Loan

Capital Injections: List the amount the developer/applicant is required to contribute to the project by the lending institutions. (Do not include anticipated syndication proceeds.)

Source of Funds	Amount of Funds	Terms

**Total Source of Funds**                      \$\_\_\_\_\_

**Total Annual Debt Service**                      \$\_\_\_\_\_

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Date

**PLEASE ATTACH DOCUMENTATION TO SUPPORT ALL SOURCES LISTED.**

## **SECTION 16: COMPLIANCE MONITORING PLAN SUMMARY**

### **General**

The Income Tax regulations (26 CFR part 1) under Section 42, as amended of the Internal Revenue Code of 1986 which was amended and renumbered by the Revenue Reconciliation Act of 1990, is effective on January 1, 1992, which was amended, effective January 1, 2001, and applies to all buildings placed in service for which the low-income housing credit determined under Section 42, as amended is, or has been, allowable at any time.

Section 42, as amended provides for a housing tax credit that may be claimed as part of the general business credit under Section 38. The credit determined under Section 42, as amended is allowable only to the extent the owner of a qualified low-income building receives a housing credit allocation from a State or local housing credit agency ("Agency"), unless the building is exempt from the allocation requirement by reason of Section 42 (h)(4)(B), as amended. Under Section 42, as amended, the housing credit dollar amount for any building is zero unless the amount was allocated pursuant to a qualified allocation plan of the Agency. Similarly, under Section 42, as amended, the housing credit dollar amount for any development qualifying under Section 42 (h)(4), as amended is zero unless the development satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan of the Agency. Under Section 42, as amended, an allocation plan is not qualified unless it contains a procedure that the Agency (or an agent of, or private contractor hired by, the Agency) will follow in monitoring compliance with the provisions of Section 42, as amended and notifying the Internal Revenue Service of any noncompliance of which the Agency becomes aware.

### **Monitoring Procedures**

#### **Record-keeping and Record Retention**

The Owner of a Housing Tax Credit (HTC) development is required to keep records for each building in the development showing:

- a. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential unit),
- b. The percentage of residential rental units in the building that are low-income units, the rent charged on each residential rental unit in the building (including any utility allowance),
- c. The number of occupants in each low-income unit,
- d. The low-income vacancies in the building and information that shows when, and to whom, the next available units were rented,
- e. The annual income certification and recertification of each low-income tenant per unit,

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**Adopted: January 5, 2009**

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- f. Written documentation to support each low-income tenant's income certification,
- g. The applicable fraction, eligible basis and qualified basis of the building at the end of the first year of the credit period , and for each year thereafter of the development's compliance period,
- h. The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d), as amended (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the development).

Federal law requires the owner of a Housing Tax Credit (HTC) development to keep written records documenting compliance with the above noted requirements for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six (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 addition to the above noted federal requirements, the Corporation requires an owner to maintain written records of current residents for the duration of the resident's tenancy, plus an additional twelve (12) months.

**Certification and Review**

The owner of a Housing Tax Credit (HTC) development is required to certify annually to the Corporation that, for the preceding 12-month period the development meets either (a) the 20-50 test under Section 42 (g)(1)(A), as amended, OR (b) the 40-60 test under Section 42(g)(1)(B), as amended, or (c) the 25-60 test under Section 42(g)(4) of the Code, whichever minimum set a side test is applicable to the development. Owners of "deep rent skewed developments" must also demonstrate that the development satisfies the minimum requirements of the 15-40 test under Sections 42(g)(4) and 142(d)(4)(8) of the Code.

In addition, the owner is required to certify that:

- a. There was no change in the applicable fraction (as defined in Section 42 (c) (1) (B), as amended of any building in the development, or that there was a change, and a description of the change.
- b. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification.
- c. Each low-income unit in the development was rent-restricted under Section 42 (g)(2), as amended, all units in the development were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i) (3) (B) (iii), as amended.
- d. Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes.

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- e. There was no change in the eligible basis (as defined in Section 42 (d) of any building in the development, or if there was a change, the nature of the change.
- f. All tenant facilities included in the eligible basis under Section 42 (d), as amended of any building in the development, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.
- g. If a low-income unit in the development became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the development were or will be rented to tenants not having a qualifying income.
- h. If the income of tenants of a low-income unit in the development increased above the limit allowed in Section 42 (g) (2) (D) (ii), as amended, the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income, and an extended low-income housing commitment as described in Section 42 (h)(6), as amended was in effect (for buildings subject to section 7108(c)(1) of the Revenue Reconciliation Act of 1989).
- i. For the preceding 12-month period the state or local government unit responsible for making building code inspections did not issue a report of a violation for the property. If the governmental unit issued a report of a violation, the owner is required to attach a copy of the report of the violation to the annual certification submitted to the Corporation. The owner must state on the certification whether the violation has been corrected. Retention of the original violation report is not required once the Corporation reviews the violation and completes its inspection, unless the violation remains uncorrected.
- j. Has not refused to lease a unit in the development to a Section 8 applicant solely because the applicant holds a Section 8 Housing Choice voucher.
- k. No finding of discrimination under the Fair Housing Act has occurred for the development (a finding of discrimination includes adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a Federal court).

NOTE: Each of the above noted certifications is required for all developments receiving an allocation of tax credits at least through the end of the building's fifteen (15) year compliance period. Additional certifications may be required of developments during their Extended Use Periods.

In addition to reviewing these certifications, the Corporation will conduct on-site inspections of all buildings in each affordable housing development and, at a minimum, review the tenant income certification, the documentation supporting such certification, and the rent record for these units at least once every three (3) years for at least twenty percent (20%) of a development's affordable units. In addition, the Corporation will conduct an inspection of all

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buildings placed in service in a development after January 1, 2001 by the end of the second calendar year following the year the last building in the property is placed in service. At its sole option, the Corporation may give an owner reasonable notice that an inspection will occur so that the owner may assemble the appropriate records.

### **Inspection**

The Corporation has the right to perform an on-site inspection of all housing developments for which an allocation of housing tax credit is/was awarded at least through the end of the compliance period, including any extended use period. This inspection provision as stated herein is in addition to any review of low-income certifications, supporting documents, and rent records.

At a minimum, the inspection will grant the Corporation the ability to determine if a housing tax credit unit is suitable for occupancy. Inspection standards to be used are intended to ensure that the housing is decent, safe, sanitary, and in good repair. Irrespective of the physical inspection standards selected by the Corporation, an affordable housing development under Section 42 must continue to satisfy local health, safety, and building codes.

A building will be considered exempt from the physical inspection requirement if it is part of a development that is/was financed by Rural Housing Services (RHS) under the Section 515 program, is inspected by RHS (under 7 CFR Part 1930(c), and the Corporation has entered a memorandum of understanding, or other similar agreement, under which RD agrees to notify the Corporation of the inspection results. The Corporation reserves the right to perform physical inspections in lieu of accepting RD inspections results.

### **Notification**

The Corporation will notify the owner of a housing tax credit development in writing as soon as possible, generally within 45 days of the deadline date, if the Corporation does not receive the required certification, or if the Corporation discovers on inspection, or review, or in some other manner, that the development is not in compliance with the provisions of Section 42, as amended, of the Code.

The owner will have an opportunity to supply a missing certification or to correct noncompliance within the correction period as defined by the Corporation, beginning on the date of the Corporation's notice. The Corporation may grant extensions of up to six (6) months, if the extension is based on a determination by the Corporation that there is good cause for granting the extension.

The Corporation will notify the Internal Revenue Service of an owner's noncompliance or failure to certify no later than forty-five (45) days after the end of the time allotted for correction, whether or not the noncompliance or failure to certify is corrected. The Corporation will notify the Internal Revenue Service by filing Form 8823, Housing Credit Agencies Report of Noncompliance. The Corporation will explain on Form 8823 the nature of the noncompliance or failure to certify and state whether the owner has corrected the noncompliance or failure to certify.

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In the event the Corporation reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Corporation will not file Form 8823 in subsequent years to report that building's noncompliance because the original citation notes the development is no longer in compliance nor participating in the Section 42 program.

### **Post Year 15 Compliance Monitoring Plan**

Developments entering into an extended low-income use period after the completion of the initial fifteen (15) year compliance period will be monitored in accordance with the post year fifteen (15) monitoring procedures as outlined herein and in the Compliance Monitoring Plan. A development's extended use period will be evidenced by an executed Declaration of Land Use Restrictive Covenant agreement between the Corporation and the owner.

Additionally, the Compliance Monitoring division of the Corporation will assess an annual servicing/monitoring fee of twenty (\$20.00) Dollars per low-income unit to cover staff costs to monitor tax credit developments during the extended use period. This fee is applicable only for developments that have executed a Declaration of Land Use Restrictive Covenant with the Corporation. On an annual basis, the servicing fee will be due to the Corporation on the same date as the Annual Owner Certification (AOC) report, as prescribed by the Compliance Monitoring division.

### **Corporation Delegation of Monitoring Functions**

The Corporation may retain an agent or other private contractor to perform compliance monitoring. In this event, the agent or other private contractor may be delegated the functions of the Corporation to monitor compliance, except for the responsibility of filing Form 8823.

### **Monitoring Fees**

Under current monitoring regulations and guidance, the Corporation will charge monitoring fees to all developments at the award of an allocation of housing tax credits. The Corporation may require additional monitoring charges if subsequent guidance or regulations warrant changes to the Corporation's monitoring procedures. Beginning with the first year of the Extended Use Period, an owner of a tax credit development operating solely under his Land Use Restriction Agreement will be assessed monitoring fees on an annual basis to cover staff monitoring costs. Monitoring fees are non-refundable and must be provided to the Corporation in the form of certified funds or a cashier's check.

The owner of a development in noncompliance will be responsible for reimbursing the Corporation for all expenses incurred. Expenses for conducting additional on-site inspections will include but are not limited to:

- a. The standard mileage rate in effect at the time of the re-inspection,
- b. Any overnight expenses,
- c. A meal allowance of \$25.00 per day, and



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- d. A charge of \$55.00 per hour to review tenant files and/or to perform a re-inspection of the development's physical condition.
- e. The Corporation will also charge fifty-five dollars (\$55.00) per hour with a fifty-five dollar (\$55.00) minimum to review documents forwarded to the Corporation to correct noncompliance. Any additional expenses incurred by the Corporation as it relates to an owner's noncompliance shall be the responsibility of the owner.
- f. The Corporation will also assess a late fee of \$100.00 per day per development for every day an owner's Annual Owner Certification is past due beyond the deadline date prescribed by the Compliance Monitoring division.

### **Mandatory Tax Credit Compliance Training**

Fundamental Compliance Monitoring training is mandatory for owners and/or managing agents of "NEW" tax credit developments within 90 days of the placed in service date of the first building. This mandatory training session will be administered by the Corporation.

### **Liability**

Compliance with the requirements of Section 42, as amended, of the Code is the responsibility of the owner of the building for which the credit is allowable. The Corporation's obligation to monitor for compliance with the requirements of Section 42, as amended, of the Code does not make the Corporation liable for an owner's noncompliance.

### **Effective Date**

The requirement of Section 42(m) (1) (B)(iii) mandating that allocation plans contain a procedure for monitoring for non-compliance effective on January 1, 1992, applies to buildings for which a low-income housing credit is, or has been allowable at any time. (The Corporation is required to notify the IRS of ALL instances of noncompliance, including noncompliance that commenced on or before the January 1, 1992 effective date of compliance monitoring requirements.)

## **SECTION 17: FAIR HOUSING ACCESSIBILITY REQUIREMENTS**

### **Purpose**

In 1988, Congress passed the Fair Housing Amendments Act as a supplement to Title VIII of the Civil Rights Act of 1968, commonly known as the Fair Housing Act. The Amendments expand coverage of Title VIII to prohibit discriminatory housing practices based on disability and familial status. The Fair Housing Act establishes design and construction requirements for multifamily housing built for first occupancy after March 13, 1991. The law provides that failure to design and construct certain multifamily dwellings to include certain features of accessible design will be regarded as unlawful discrimination.

The design and construction requirements of the Fair Housing Act apply to all new multifamily housing consisting of four or more dwelling units. Such buildings must meet specific design requirements so public and common use spaces and facilities are accessible to people with disabilities. In addition, the interior of dwelling units covered by the Fair Housing Act must be designed so they too meet certain accessibility requirements.

The Fair Housing Act's purpose is to place modest accessibility requirements on covered multifamily dwellings incorporated into the design of new buildings, resulting in features, which do not look unusual and will not add significant additional costs. Housing designed in accordance with the Fair Housing Act will have accessible entrances, wider doors and provisions to allow for easy installation of grab bars around toilets and bathtubs.

### **Enforcement Agency**

The U.S. Department of Housing and Urban Development (HUD) is the federal enforcement agency for compliance with the Fair Housing Act. Designers and builders were guided by the requirements of the ANSI A117.1-1986 American National Standard for Buildings and Facilities - Providing Accessibility and Usability for Physically Handicapped People until March 6, 1991. The Fair Housing Accessibility Guidelines were published on this date (56 Federal Register 9472-9515, 24 CFR Chapter I, Subchapter A, Appendix II and III). The Guidelines provide technical guidance on designing dwelling units as required by the Fair Housing Act. These Guidelines are not mandatory, but are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.

The Guidelines published on March 6, 1991, remain unchanged. However, on June 28, 1994, HUD published a supplemental notice to the Guidelines, "Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines." This supplemental notice reproduces questions that have been most frequently asked by members of the public, and HUD's answers to those questions.

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Under the Fair Housing Act, HUD is not required to review builders' plans or issue a certification of compliance with the Fair Housing Act. The burden of compliance rests with the persons or persons who design and construct covered multifamily dwellings. HUD or an individual who thinks he or she may have been discriminated against may file a complaint against the building owner, the architect, the contractor, and any other persons involved in the design and construction of the building.

### **Laws and Codes That Mandate Accessibility**

Over the past two and a half decades, several statutes have been enacted at various levels of government that ensure nondiscrimination against people with disabilities, both in the design of the built environment and in the manner that programs are conducted. Certain dwellings as well as certain public and common use areas may be covered by several of the laws listed below. A brief synopsis of the landmark legislation follows to show where the Fair Housing Act fits into the overall history of accessibility legislation.

#### *The Architectural Barriers Act (1968)*

This Act stipulates that all buildings, other than privately owned residential facilities, constructed by or on behalf of, or leased by the United States must be physically accessible for people with disabilities. The Uniform Federal Accessibility Standards (UFAS) is the applicable standard.

#### *Section 504 of The Rehabilitation Act (1973)*

Under Section 504 of the Rehabilitation Act of 1973 as amended, no otherwise qualified individual with a disability may be discriminated against in any program or activity receiving federal financial assistance. The purpose of Section 504 is to eliminate discriminatory behavior toward people with disabilities and to provide physical accessibility, thus ensuring that people with disabilities will have the same opportunities in federally funded programs as do people without disabilities.

Program accessibility may be achieved by modifying an existing facility or by moving the program to an accessible location, or by making other accommodations, including construction of new buildings. HUD's final regulation for Section 504 may be found at 24 CFR Part 8. Generally, the UFAS is the design standard for providing physical accessibility, although other standards which provide equivalent or greater accessibility may be used.

#### *The Fair Housing Act of 1968, as Amended*

The Fair Housing Act provides equal opportunities for people in the housing market regardless of disability, race, color, sex, religion, familial status or national origin, regardless of whether the housing is publicly funded or not. This includes the sale, rental, and financing of housing, as well as the physical design of newly constructed multifamily housing.

*The Americans With Disabilities Act (1990)*

The Americans with Disabilities Act (ADA) is a broad civil rights law guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. Title II of the ADA applies to all programs, services, and activities provided or made available by public entities. With respect to housing, this includes, for example, public housing and housing provided for state colleges and universities.

*State and Local Codes*

All states and many cities and counties have developed their own building codes for accessibility, usually based in whole or in part on the specifications contained in the major national standards such as ANSI and UFAS. Many states also have nondiscrimination and fair housing laws similar to the Fair Housing Act and the Americans with Disabilities Act.

When local codes differ from the national standard, either in scope or technical specification, the general rule is that the more stringent requirement should be followed. Many states also have provisions that a certain percentage (often 5%) of new multifamily housing must meet more stringent physical accessibility requirements than required under the Fair Housing Act. In such cases, both the state mandated percentage of accessible units must be provided and all dwellings covered by the Fair Housing Act must meet the Guidelines.

**General Provisions of The Fair Housing Act**

The Fair Housing Act covers most types of housing. In some circumstances it exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

The broad objective of the Fair Housing Act is to prohibit discrimination in housing because of a person's race, color, national origin, religion, sex, familial status, or disability. The Fair Housing Act includes two important provisions: one, a provision making it unlawful to refuse to make reasonable accommodations in rules, policies, practices, and services when necessary to allow the resident with a disability equal opportunity to use the property and its amenities; and two, a provision making it unlawful to refuse to permit residents with disabilities to make reasonable modifications to either their dwelling unit or to the public and common use areas, at the residents' cost.

*Reasonable Accommodations*

In buildings with a “no pets” rule, that rule must be waived for a person with a visual impairment who uses a service dog, or for other persons who uses a service dog, or for other persons who use service animals. In buildings that provide parking spaces for residents on a “first come, first served” basis, reserved parking spaces must be provided if requested by a resident with a disability who may need them.

*Reasonable Modifications*

When a resident wishes to modify a dwelling unit under the reasonable modification provisions of the Fair Housing Act, the resident may do so. The landlord/manager may require that the modifications be completed in a professional manner under the applicable building codes, and may also require that the resident agree to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted.

Landlords may not require that modifications be restored that would be unreasonable, i.e., modifications that no way affect the next resident’s enjoyment of the premises. For example, if a resident who uses a wheelchair finds that the bathroom door in the dwelling unit is too narrow to allow his or her wheelchair to pass, the landlord must give permission for the door to be widened, at the resident’s expense. The landlord may not require the doorway be narrowed at the end of the resident’s tenancy because the wider doorway will not interfere with the next resident’s use of the dwelling.

Residents also may make modifications to the public and common use spaces. For instance, in an existing development it would be considered reasonable for a resident who uses a wheelchair to have a ramp built to gain access to an on-site laundry facility. If a resident cannot afford such a modification, the resident may ask a friend to do his or her laundry in the laundry room, and the landlord must waive any rule that prohibits nonresidents from gaining access to the laundry room.

**The Scope of the Design and Construction Requirements of the Fair Housing Act**

The accessibility requirements of the Fair Housing Act are intended to provide usable housing for persons with disabilities without necessarily being significantly different from conventional housing. The Fair Housing Act specifies certain features of accessible design and certain features of adaptable design.

*Adaptable Dwelling Units*

Covered dwelling units that meet the design requirements of the Guidelines are sometimes referred to as “adaptable dwelling units” or units that meet “certain features of accessible design.” The Guidelines incorporate accessibility features that are both accessible and adaptable. Accessible elements and spaces are those whose design allows them to be used by the greatest numbers of users without being modified. For example, the requirement within the covered dwelling unit for “usable” doors, with a nominal clear

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opening of 32 inches, ensures that dwelling unit doors are not too narrow or impassable for any resident.

Adaptable/adjustable elements and spaces are those with a design which allows them to be adapted or adjusted to accommodate the needs of different people. The Fair Housing Act incorporates the adaptable/adjustable concept in bathroom walls by requiring that they contain reinforced areas to allow for later installation of grab bars without the need for major structural work on the walls.

### *Dwellings Covered by the Design Requirements*

The design requirements apply to buildings built for first occupancy after March 13, 1991, which fall under the definition of “covered multifamily dwellings.” Covered multifamily dwellings are:

1. All dwelling units in buildings containing four or more dwelling units if such buildings have one or more elevators, and
2. All ground floor dwelling units in other buildings containing four or more units.

To be a covered unit, all of the finished living space must be on the same floor, that is, be a single-story unit, such as single-story townhouses, villas, or patio apartments. Multistory dwelling units are not covered by the Guidelines except when they are located in buildings which have one or more elevators, in which case, the primary entry level is covered.

SOURCE: Fair Housing Act Design Manual, designed and developed by Barrier Free Environments, Inc., Raleigh, North Carolina for The U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity and the Office of Housing, August 1996