

## **CHAPTER III. ALLOCATION OF TAX CREDITS**

### **STATE TAX CREDIT VOLUME**

In any given calendar year, the aggregate tax credit amount available for allocation to Georgia projects equals \$1.25 times the latest official estimate of the state's population, plus any unused credit authority carried forward from the previous year and any credits available from the national pool. This does not include credits which are available outside of the state cap for projects financed with tax-exempt revenue bonds subject to the state private activity bond allocation ceiling.

The allocable credit authority reflects the ceiling amount for assignment to all qualified projects in the state. Only the first year allocation amount is counted against the state's tax credit ceiling, although the taxpayer is entitled to take the same annual credit amount nine additional times (assuming program compliance) during the credit period.

### **GENERAL ALLOCATION OBJECTIVES**

The Authority sets the following objectives for the design of its allocation system as well as the active promotion of the tax credit program:

- (1) the maximum utilization of the available credits by financially feasible projects;
- (2) the equitable statewide distribution of benefits;
- (3) program access by a wide variety of credit users;
- (4) a weighing of need and projected benefit; and
- (5) the express targeting of program benefits to certain desirable uses.

In addition to the overall objectives listed above, the following considerations are taken into account in the design of the allocation plan:

- (1) The plan needs to be flexible to allow maximum utilization of the tax credit.
- (2) The system needs to build in certain safeguards to avert the early "monopolization" of tax credit authority by a few large users.
- (3) The plan needs to provide for early (advance) reservation of tax credits, but not tie up credit authority indefinitely.
- (4) The system must provide for project performance checks in order for credit reservations/commitments to remain in effect.

- (5) Preferences for certain types of housing activities should be implemented through a combination of variable reservation periods, outright set-asides and project selection criteria during competitive application filing periods.

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## **QUALIFIED STATE ALLOCATION PLAN**

### **LEGISLATIVE REQUIREMENTS FOR THE QUALIFIED STATE ALLOCATION PLAN**

Section 42 of the Internal Revenue Code (the "Code") mandates that housing credit agencies adopt plans for allocation of credit among projects. The state allocation plan must be approved by the Governor after the public has had the opportunity to comment through the public hearing process.

According to section 42 (m)(1)(B) of the Code, in the allocation plan the Authority is required to:

1. set forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions;
2. give preference in allocating housing credit dollar amounts among selected projects to:
  - a. projects serving the lowest income tenants;
  - b. projects obligated to serve qualified tenants for the longest periods;
3. provide a procedure that it (or an agent or other contractor of the Authority) will follow in monitoring for noncompliance with the provisions of the credit program and in notifying the Internal Revenue Service of such noncompliance of which it becomes aware.

An additional requirement is that selection criteria address: project location, housing needs characteristics, project characteristics, sponsor characteristics, participation of local tax-exempt organizations, tenant populations with special housing needs, and public housing waiting lists.

**The Plan also applies to tax-exempt bond financed projects which are eligible to receive the credit through an allocation independent of the State's annual credit cap.**

## IDENTIFICATION OF HOUSING NEEDS

The Authority's research in preparing the FY 1995 Consolidated Plan guided the State's design of the Qualified Allocation Plan. The U.S. Department of Housing and Urban Development requires the State to identify within the Consolidated Plan housing needs and the available resources to address them. This consolidated plan offers a "holistic" approach to effectively using its federal resources, including funds associated with the HOME, Community Development Block Grant (CDBG), Emergency Shelter Grant, and Housing Opportunities for People with AIDS (HOPWA) programs.

Through the consolidated planning process, the State has identified the following general housing problems affecting renter households:

- The existence of substandard housing serves as a disincentive for new and continued investment within a community, depresses property values, and promotes a poor neighborhood image. Households who live in areas with limited available rental housing or cannot afford decent, safe and sanitary housing reside in substandard rental housing.

Approximately 43% of all renters live in a substandard unit. The State defined a "substandard unit" to include the existence of at least one of the following housing problems: lacks a complete kitchen, lacks complete plumbing, is overcrowded, or the household is cost burdened. Over 356,806 renter households experience one of these housing problems.

- Housing affordability is the most common issue affecting renter households. More than 290,000 households pay more than 30% of their income for rent and are, therefore considered to be cost burdened. Over 130,000 renters are severely cost burdened, paying more than 50% of their income for rent. Thus, approximately 36% of renters are cost burdened and 16% are severely cost burdened. Slightly less than half of all renter cost burdened households are severely cost burdened.
- Of the cost burdened renters, 48,556 are elderly households (28% of all elderly renters), 120,101 are small families (21% of all small family renters), and 27,155 are large families (23% of all large family renters).

- Households unable to afford sufficiently large accommodations opt to rent the size apartment they can pay for rather than the size of unit they need. Overcrowding, defined as having more than 1.01 persons per room, affects nearly 55,000 renter households in Georgia. Nearly 7% of all renters are affected by this housing problem.

Overcrowding is most common in large family households, with over 36,000 renters affected (43% of all large family renters). The occurrence of overcrowding conditions declines substantially for both elderly and small family households. Fewer than 1% of elderly households (142) and approximately 4% of small family households (16,323) reside in overcrowded conditions.

In addition to the general needs of Georgia's renter households, the special needs of certain households were also examined in the consolidated planning process:

- Despite the inherent difficulties in quantifying its extent, homelessness is a substantial and serious problem in Georgia. In 1989, the U.S. Census Bureau conducted a "point-in-time" survey and counted 4,430 homeless individuals throughout the state. Homeless advocates expressed considerable negative reaction to this survey because in their opinion, it underestimated the extent of the problem. The Atlanta Task Force for the Homeless estimates that 50,000 - 75,000 individuals are homeless during the year in Georgia.

The housing needs of the homeless include a need for emergency shelters and transitional housing. An inadequate number of facilities exists for homeless families and individuals. Acute shortages of emergency overnight and transitional shelters occur throughout all of Georgia's metropolitan areas. Long-term transitional facilities with supportive services for substance abuse treatment and employment training are also in short supply.

- The housing needs of the disabled include community-based residential facilities, which offer a non-institutional alternative for mentally ill and retarded individuals; respite homes, which provide care for the profoundly disabled when the primary caretaker is unavailable; and housing retrofitting, which provides access to the physically disabled. An estimated 13,000 disabled individuals in the state require

residential services. Information on the extent of housing requiring retrofitting is currently unavailable.

- The State's Department of Human Resources estimates that 25,000 - 30,000 Georgians are infected with the Human Immunodeficiency Virus (HIV). The actual number of individuals testing positive for HIV is unknown because individual testing is anonymous and often occurs more than once. Over 2,100 individuals reported developing AIDS between October 1993 and September 1994. Approximately 3,000 - 4,000 people are living with AIDS at any one time in Georgia. One study conducted by an Atlanta-based non-profit organization found that 200 people living with AIDS need some form of rental assistance to allow them to stay at home or with a caretaker, because they have been disabled by the disease. AID Atlanta indicated in their written FY 1994 CHAS submission that approximately 85% of their clients have some problems finding appropriate affordable housing.
- The State Farm Labor Committee estimates that approximately 200,000 migrant farm workers assist Georgia's farmers with planting and harvesting their crops during the peak summer season. While many of these migrant workers are adequately housed by their employers, many others live in substandard motels and other rental units which are not subject to inspections by the Department of Labor. An estimated 60% of migrant workers in Georgia reside in this substandard housing. Telamon Corporation estimates that within Decatur County approximately 4-6% of the units are overcrowded. A severe shortage of adequate housing particularly exists in the farming areas in the counties of Burke, Colquitt, Decatur, Lowndes, Toombs, and Tattnall.

Telamon Corporation reports that many migrant farm workers have chosen to "settle out" in Georgia. Decent, safe and sanitary short-term seasonal housing for single males as well as multifamily housing for "settled out" workers are the principal housing needs of migrant workers.

## **ESTABLISHMENT OF HOUSING PRIORITIES**

In consideration of the identified housing needs, the Authority has established certain housing priorities for the allocation of low-income housing credits. The Authority seeks to:

- Promote programs and initiatives to alleviate substandardness.
- Promote programs and initiatives to alleviate overcrowding.
- Promote programs and initiatives to enhance affordability.
- Promote community development through neighborhood based housing initiatives and programs.
- Encourage the formation of partnerships between private housing developers, financial institutions, the public sector, public housing authorities foundations, and others.
- Promote coordination of housing assistance within the state.
- Build additional housing assistance capacity among nonprofits and other providers.
- Promote mixed income housing development.

## PROJECT SELECTION CRITERIA

### Threshold Criteria

The Authority is required to evaluate applications received to determine which applications should be allocated tax credits. To obtain tax credits, a project must first demonstrate that it meets the following basic qualifications:

1. Qualified residential rental project which meets the basic occupancy and rent restrictions of section 42 of the Internal Revenue Code of 1986. (See Chapter II of Manual for Eligibility Requirements.) Limited equity leasing cooperatives are eligible to participate in the tax credit program but must not be considered homeownership.
2. Reasonable per unit costs which do not exceed the following cost limitations:

Atlanta MSA

Efficiency	\$46,374	3 bedrooms	\$83,623
1 bedroom	\$53,158	4+ bedrooms	\$91,792
2 bedrooms	\$64,641		

All Other Areas

Efficiency	\$40,002	3 bedrooms	\$72,132
1 bedroom	\$45,854	4+ bedrooms	\$79,179
2 bedroom	\$55,759		

Where the Authority determines that higher per unit costs are justified (due to, for example, the existence of tenant services or common areas essential to the character of the project or the meeting of a significant priority of the state), such cost limits may be exceeded. Applicants must request in writing a waiver of the cost limits at least 60 days prior to the application deadline. NOTE: These costs are based upon the HUD 221(d)(3) cost limits and are subject to change.

3. Readiness to proceed as documented by:
  - a. Evidence of site control;
  - b. Zoning approval (this includes evidence of all required variances, special use permits, etc. required to complete the development as proposed);
  - c. Evidence of availability of utilities to the site or evidence that they will be provided (not required for projects involving rehabilitation).

4. Likelihood of sustained 15-year compliance with Code requirements and willingness to enter into a commitment with Georgia Housing and Finance Authority to extend the low-income housing use of the project by an additional 15 years beyond the initial compliance period in accordance with section 42(h)(6).
5. Market and financial feasibility of the rental project and the low-income structure documented by:
  - a. A market study which addresses need and demand for the type of housing which is proposed and market feasibility of the proposed rent structure.(This requirement may be waived under certain conditions; see market study guidelines. Applicants must request in writing a waiver at least 60 days prior to the application deadline.);
  - b. Development cost projections and the expected sources of financing;
  - c. For projects involving rehabilitation, a physical needs assessment in a format prescribed by the Authority showing all necessary improvements and the projected cost. In addition, a completed, detailed work plan showing all contemplated work, which must include all immediate improvements noted in the physical needs assessment.
6. If a project involves new construction, it may not be located in the same market area as a comparable project of ten (10) units or more which has been allocated tax credits, and has not yet achieved occupancy levels sufficient for economic stability, except for a project for which the developer demonstrates adequate demand in the relevant market area. Although the developer defines the market area, GHFA will review and determine if it has been reasonably drawn.
7. If a project is located in the Atlanta MSA, the weighted average of the proposed gross rents is at least 10 percent below the weighted average of the maximum gross rents allowed under the 40/60 election during the project's compliance period.(The example below demonstrates how to calculate this number.) Project owners will commit to this through a provision to this effect in the required restrictive covenants. This criterion is not applicable to tax exempt multifamily bond financed developments, however, it does apply to those developments that are credit enhanced (i.e. a loan guarantee or risk-sharing) by GHFA.

Example of How to Calculate Weighted Rents:

Actual Proposed Rents and \*  
Utility Allowances

64 (2)BRs @ \$506 = \$32,384

32 (3)BRs @ \$581 = \$18,592

Total = \$50,976

Maximum Allowable Rents  
@ 60% Level \*\*

64 (2)BRs @ \$657 = \$42,048

32 (3)BRs @ \$759.95 = \$24,312

Total = \$66,360

$\$50,976 \div \$66,360 = 76.8\%$ . This proposal passes the 10% threshold test. To pass threshold the percentage of actual proposed rents contract plus utility allowances must be 90% or less of the maximum allowable gross rents. In this example, rents are approximately 23% below the maximum allowable rents, thus there is a 13% cushion in the rents proposed above.

\* If utilities are included in the rent, do not add the utility allowance proposed rents.

\*\* Using 1995 income limits; this will change as new income limits are released by HUD.

8. A project must not result in the permanent displacement of existing tenants.
9. For projects to be considered under the nonprofit set-aside:
  - a. The nonprofit must be a qualified nonprofit organization as defined in section 42(h)(5)(C).
  - b. The nonprofit must own an interest (directly or through a partnership) in the project and must materially participate within the meaning of section 469(h) of the Code in the development and operation of the project throughout the compliance period. Material participation means that the nonprofit must serve as an owner and property manager.

NOTE: Nonprofit organizations affiliated with for-profit entities will also be reviewed for compliance with section 42(h)(5)(C)(ii).
  - c. At a minimum, 25% of the general partnership in a tax credit partnership arrangement must be a nonprofit general partner and the nonprofit must co-manage the proposed housing development. This must be evidenced by an executed partnership agreement between the nonprofit and the remaining partner(s).
10. Continued compliance with LIHC requirements throughout the compliance period is a prerequisite to participate in the tax credit program. Within the past year, an applicant

must not have been found in non-compliance with the LIHC program for reasons such as fraud, health and safety. GHFA reserves the right to make final determination as to whether or not the matter causing the determination of non-compliance is significant enough to warrant debarment. Applicants found with significant non-compliance violations will not be allowed to apply for tax credits during the calendar year following the year the non-compliance is reported to the IRS. Further, owners and/or managers who do not fully disclose their previous participation with GHFA, HUD, the RECDs or any other governmental entity may be barred from participating in the tax credit program.

### **Site Selection Criteria**

GHFA reserves the right to inspect proposed project locations for suitability of site for housing and the target market and to reject an application based on unsuitable site conditions. All sites must meet the site selection criteria outlined in Section I.2 of the Application Manual prior to the issuance of a tax credit reservation. Additionally, prior to the issuance of the final allocation of tax credits each development will be subject to additional site visits to determine 1) if the level of rehabilitation/construction is consistent with that presented in the approved application, and 2) if the level of services being offered at the development is consistent with those presented in the approved application. GHFA also reserves the right to ensure that all assisted units are not designed to compete with higher priced conventional units. Design, square footage and amenities should not exceed contemporary market rate unit standards.

All of the items required to document that the threshold criteria are met must be submitted in the initial application package. Any application submitted without such documentation will be considered incomplete and will not be evaluated.

The completeness and correctness of the application package will be determined by GHFA at its sole discretion.

### **Evaluation Factors**

Applications will be further evaluated in relation to the housing priorities identified. The Authority has established selection criteria for the various resources it has available for multifamily residential rental housing. Those criteria which will be used to evaluate applications, regardless

of the resource requested, are categorized as core criteria. The Authority will evaluate applications for tax credit allocation using the following core selection criteria.

**CORE CRITERIA**

	MAXIMUM POINTS
<u>A. Project Characteristics</u>	
1. The project adds to or significantly upgrades the existing low-income rental housing stock.	
a. Project involves new construction outside of the Atlanta MSA;	25
b. Project is unoccupied and involves rehabilitation averaging at least \$6,500 per unit in hard costs with replacement of at least one major building component (plumbing, roof, HVAC, etc.); OR	40
Project is occupied and involves rehabilitation averaging at least \$6,500 per unit in hard costs with replacement of at least one major building component (plumbing, roof, HVAC, etc.);	50
2. The project is mixed-income, with a minimum of twenty (20) percent of the units and a maximum of sixty (60) percent of the units set aside for low-income tenants.	
3. The entire project qualifies as Single Room Occupancy housing (as defined by HUD).	20
4. The project attracts or retains existing Federal, state, or local project-based subsidies. Evidence of subsidy (e.g., a letter from appropriate Federal, state, or local agency) must be submitted identifying the subsidy and the terms and conditions for its receipt. Applicants for GHFA Resource Bank funds with no other private debt financing will receive points under 4b. One point will be awarded for each percentage point of the total development cost paid for by the federal/state/local subsidy in 4a or 4b above. Up to twenty-five (25) points for each criterion may be awarded for a maximum of fifty (50) points.	
a. Federal assistance: This includes but is not limited to Affordable Housing Program Funds(FHLB), FHA Insurance in connection with a Below Market	

Interest Rate Loan Appalachian Regional Commission funds and RECDS or FmHA funds. 25

- b. State/local assistance: This includes but is not limited to tax abatements, local grants, CDBG, Small Cities CDBG funds, HOME, 108 loan guarantees, land donations, building permits, fee waivers and infrastructure improvements. 25

5. The project improves the overall quality of housing in a community through emphasis on good and efficient design. Up to ten (10) points for each criterion may be awarded for a maximum of twenty (20) points.

- a. Planned project/unit amenities such as laundry facilities, washer/dryer hook-up, playground area/tot lot will be evaluated as follows (amenities must be substantiated by final drawings):

<u>Amenity</u>	<u>Points</u>	10
Laundry Facilities, Community Room, Pool, Picnic Area, Playground Area, Tot Lot	2 points each	
Washer/Dryer Hookup, Offices, Alarm, Gate, Security, Tennis Court, Basketball Court	1 point each	

- b. Project qualifies for historic rehabilitation tax credit. 10

6. The project design and specifications exceed, not just meet, the requirements of the Georgia State Energy Code for Buildings as verified by (a) a signed statement from the registered architect or professional engineer involved in the project; or (b) documentation by the gas or electric utility supplier providing the heating fuel for the project that the project meets the requirements of the supplier's energy efficiency program which is designed to exceed the Code. (Examples of such programs include the Energy Wise and the Good Cents programs.) 10

7. The project meets all the requirements set forth in section 42(d)(6)(C) of the Code and preserves assisted low-income housing which, due to mortgage prepayments, foreclosure, or expiring rental assistance, would convert to market rate use within 12 months of the date of application. 25

8. Within twelve (12) months of the date of application the project has been or will be acquired from: (a) an insured depository institution in default or from a receiver or conservator of such an institution; (b) a secondary mortgage market lender; or (c) a governmental entity.

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9. The Authority restricts the developer's fee for new construction and rehabilitation based on project cost as set forth below. (The allowable developer's fee for acquisition of existing buildings equals 6 percent.) Applicants who include a lesser amount in project cost than that shown below (exclusive of the 6 percent for acquisition, if applicable) will receive two points for each percentage point by which they reduce the developer's fee. The Authority will calculate the developer's fee as a percentage of total project cost, minus the developer's fee, acquisition costs, LIHC compliance monitoring fees, and syndication costs. The developer's fee consists of developer overhead and profit, consultant fees and operating and rent-up reserves, except that any operating and rent-up reserves equal to at least 4 months of debt service (secured debt service only) and which remain in the reserve for at least 10 years will not be considered part of developer's fee. Up to fifteen (15) points. 15

<u>Project Cost</u>	<u>Maximum Developer Fee</u>
Less than \$2,000,000	22%
\$2,000,001 to \$5,000,000	20%
Over \$5 million	18%

10. The developer has secured construction and/or at least 10-year permanent financing sufficient to complete the project, as evidenced by a firm letter of commitment from a lending institution. A general letter of interest or support is not a firm commitment. To be considered a commitment, the document must contain the term(s), conditions, interest rate, disbursement conditions, security requirements, and repayment provisions and be signed by an authorized representative. The commitment may be subject to an allocation of tax credits. If, for example, a commitment may be withdrawn due to "adverse economic conditions" or is subject to "confirmation of the project's economic feasibility", then the commitment is not firm. Commitment letters vary from institution to institution and the Authority reserves the right to determine whether the commitment is satisfactory. A change in the financing source after reservation of the credit may change the project score and result in the credits being recaptured by the Authority. For projects with

multiple sources of financing, all financing for the construction or permanent stage must be in place to receive points. A maximum of forty (40) points, twenty (20) for construction and twenty (20) for permanent financing, may be awarded.

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B. Sponsorship Characteristics

(NOTE: Developers or management entities with unfavorable prior performance in the credit program may not qualify for points or may be barred from participation.)

1. The development team has previous successful experience in providing housing similar in size and type of housing to the proposed project and has access to various sources of public and private funds. The past performance of the developer will be reviewed.

a. For the developer with previous successful experience developing affordable housing projects under the tax credit program or other Federal housing programs, up to twenty (20) points, two (2) points per project, may be awarded.

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b. For developer with successful housing experience not included above, up to five (5) points, one (1) point per project, may be awarded. Developers participating in the nonprofit set-aside may use single family housing experience to satisfy this criterion. One point will be awarded for every two single family homes developed up to five points.

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2. The developer or management entity has previous successful experience in the management of housing similar in size and type to the proposed project:

a. Federally-assisted low-income housing. Up to twenty (20) points, two (2) points per year, may be awarded.

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b. Other housing not included in a. Up to five (5) points, one (1) point per year, may be awarded.

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3. If project qualifies for points under section D1, D2, D3, or D4, the developer has previous experience in the type of housing or service delivery proposed.

5

4. Minorities and/or women participate in the ownership, development, or management of the project by holding fifty-one (51) percent or more interest in the project ownership [general or limited partnership (i.e. a minority or woman owned corporation eligible to

participate in such ventures)], 51 percent of the development entity, or 51 percent of the management firm (for nonprofits 51 percent or more of the board of directors must be composed of women or minorities). Up to 15 points (5 points each for the owner, developer, or manager) may be awarded. 15

5. The owner, developer or manager (as stated above in #4) of the project is a local (Georgia-based) tax-exempt organization with previous experience in the development and operation of housing similar to that proposed in the application. 25

C. Project Location and Housing Needs Characteristics

1. The project is located outside of the Atlanta MSA. 20

2. The project supports neighborhood preservation and other organized community improvement and revitalization programs, e.g., CDBG target areas, urban renewal areas, or empowerment/enterprise zones, as evidenced by a letter and a copy of the plan from the local government or housing authority which describes:
  - a. the specific target area and the plans for its preservation or improvement; and
  - b. the manner in which the proposed project satisfies or conforms to the plan. 40

3. The project is located in a county designated by the RECDs as a Rural Housing Targeting Set-Aside County. 25

4. The project is located in a Qualified Census Tract, enumeration district or HUD-designated high cost development area. 40

D. Tenant Populations with Special Housing Needs

1. Entire project is designed, equipped and exclusively marketed to elderly tenants. 10

2. Physically handicapped persons:
  - a. At least ten (10) percent of the units in the project are equipped for handicapped persons. Equipped means that features making the units fully usable to handicapped persons are installed in the units at the time of construction. (Must



20 percent of units

40

- 6. The developer agrees to set-aside units for extremely low income households at rents that equal 30% of 30% of the Area Median Income. Points will be awarded in the following way:

At least five (5) percent of the units in the project must be affordable to such households. The Authority will consider gross rents that must average 30 percent of area median income affordable to such households. Up to twenty (20) points may be awarded.

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<u>No. Units at 30% AMI</u>	<u>Points</u>
5 percent of units	5
10 percent of units	10
15 percent of units	15
20 percent of units	20

- 7. The owner/developer provides supportive services (e.g., tenant counseling, daycare/after school care, job training, etc.) appropriate to the population to be served (subject to GHFA concurrence). To qualify for points, there must be a contract in place for services to be provided on-site or services must be provided or coordinated by management staff. Ten (10) points will be awarded per on-site service (e.g. owner-or manager-initiated tutoring, day care, counseling, etc.), and five (5) points will be awarded per off-site service (e.g., Meals on Wheels, senior center transportation, services provided by local agencies). Points will not be awarded for supportive services not provided by or contracted by the owner or manager (e.g. visiting nurses, medical emergency alarms under separate contract).

Up to twenty (20) total points may be awarded.

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- 8. Projects located in counties that have had at least 50 housing units destroyed by federally declared natural disasters, such as tornadoes, hurricanes, storms, earthquakes during the last three years. Eligible counties include:

Baker	Chatham	Crisp
Dooly	Dougherty	Lee
Monroe	Sumter	Telfair
Worth		

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- 9.

Rent Reduction

Projects providing affordable rents to very low-income households are meeting the most pressing housing need in Georgia. Those projects which target more than the required number of the project's units to lower-income households or reduce the rents below required levels will be awarded points as described below:

For all projects:

Developer electing the 40/60 set-aside and agreeing to reduce rents below the maximum allowable gross rents will be awarded points as described below. Rents must be reduced to 50% of area median income (the 50% rent level) or less. The rent reductions must remain in effect during the compliance period and a provision so stipulating will be included in the restrictive covenants. One point will be awarded for every 1 percentage point of units with rents at the 50% level. (For projects located in the Atlanta MSA, the maximum allowable gross rents are those required to meet #7 under the Threshold Criteria. The rent reductions must remain in effect during the compliance period and a provision so stipulating will be included in the restrictive covenants.) A maximum of 50 points will be awarded.

50

- 10. Developers requesting tax credits in an amount less than the maximum credit allowable will receive five (5) points for each one (1) percentage point reduction in the amount of credits requested for a maximum of up to 25 points. [NOTE: Maximum credit allowable is defined as the credit calculated pursuant to the Eligible Basis Calculation as shown on MF-335 (shown on page 3, on line "A. Combined 4% and 9% Credits".)]

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For example:

Amount Requested = \$495,000  
 Maximum Credit Allowable = \$500,000 = 99%. In this instance 5 pts. is awarded.

- 11. The project contains ten (10) units or less.

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- 12. No other tax credit projects in county (counties are listed at the end of this Plan).

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**LIST OF COUNTIES WITH NO LIHC PROJECTS**

Bacon	Baker	Brantley
Chattahoochee	Cook	Dade
Echols	Irwin	Jasper
Jeff Davis	Jones	Lee

Liberty  
Madison  
Oconee  
Quitman  
Thomas  
Wilkinson

Lincoln  
Miller  
Pulaski  
Seminole  
Treutlen

Long  
Mitchell  
Putnam  
Stephens  
Twiggs

**FMHA RURAL HOUSING TARGETING SET-ASIDE COUNTIES**

Appling  
Baker  
Calhoun  
Decatur  
Early  
Evans  
Hancock  
Jefferson  
Lanier  
Marion  
Mitchell  
Randolph  
Stewart  
Taliaferro  
Telfair  
Treutlen  
Warren  
Wilcox

Atkinson  
Brantley  
Clay  
Dodge  
Elbert  
Grady  
Heard  
Jenkins  
Liberty  
McIntosh  
Montgomery  
Screven  
Sumter  
Tattnall  
Terrell  
Turner  
Wayne  
Worth

Bacon  
Burke  
Crisp  
Dooly  
Emanuel  
Greene  
Jeff Davis  
Johnson  
Macon  
Meriwether  
Quitman  
Seminole  
Talbot  
Taylor  
Toombs  
Twiggs  
Wheeler

## **Final Ranking**

The Authority will evaluate projects according to their strength in meeting the selection criteria and award points accordingly. All projects must score at least 125 points under the Core Criteria to be approved for tax credits. After evaluating and scoring all applications received, the Authority will rank them from highest to lowest based on the scores. Projects qualifying for one of the set-asides will compete first in the appropriate set-aside and then, if necessary, in the general pool.

The results of the site visit will be used as a determinant as to the acceptability of the proposed housing development along with the Owners' Environmental Questionnaire and Disclosure Statement prior to the issuance of a reservation award of the tax credits.

The results of the evaluation will be determined by the Authority in its sole discretion and will not be subject to challenge or contest by any applicant.

## **Reservation and Award of Credits**

The Authority will give preference in allocating credits to those projects which: (1) serve the lowest income tenants, as measured by percentage of area median income, and (2) are obligated (as evidenced by grant agreement, restrictive covenants, etc.) to serve qualified tenants for the longest periods.

The Authority may award credits to projects by other than the highest score within the preferences to avoid certain undesirable situations. If necessary, in each round, the Authority will award seventy-five (75) percent of the credit authority available according to the points received and the preferences until the amount available is depleted. The remaining twenty-five (25) percent of credit authority will be awarded within the preferences to achieve balance as required by factors, such as geographic area, type of activity (new construction/rehabilitation), size of project, type of project (family/elderly).

Additionally, the Authority may allow developers to address deficiencies in an application if the Authority does not approve a sufficient number of applications to use all the credit authority available in an application cycle and it receives applications which are acceptable except for minor deficiencies which the developer can address within a reasonable amount of time (generally not to exceed 10 days). Should the Authority not allow applicants to address any

deficiencies or applicants fail to submit any requested information within the time period specified, the Authority will reject the application.

In the event a project which met the minimum score does not receive a reservation because the amount of credit available in that application cycle has been exhausted, that project will, subject to Authority approval, be placed on the waiting list for that cycle's credit ceiling. Projects for which no reservation was made may compete again in a subsequent cycle.

## **ALLOCATION PROCESS**

### **Set-Asides**

To facilitate the equitable statewide distribution of tax credits, encourage program access by a wide variety of tax credit users, and to expressly target program benefits to certain desirable uses, the Authority will make some of the tax credits available through the use of set-asides. Generally, the set-asides will remain in effect throughout the allocation year. To the extent sufficient applications are not available during the last round to use all of the credit authority in a particular set-aside, the credit authority may be assigned without regard to the set-aside amounts (except for the mandatory 10 percent nonprofit set-aside).

#### Nonprofit Set-Aside

The Authority will set-aside twenty-five (25) percent of the credits for qualified nonprofit organizations on a competitive basis. Forty percent (40%) of the tax credits under this set-aside, or ten (10%) of the total credit amount available, will be allocated to neighborhood-based nonprofit organizations. The nonprofits will compete for the credits using the same application, ranking, and allocation procedures as those applicable to the allocation of the unrestricted credit portion. The Authority will give preference to applications from nonprofit organizations in the following order:

1. Neighborhood-based nonprofit organization; (In addition to meeting the requirements of Threshold Criteria #9. For purposes of this section, a neighborhood means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government. If the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.)
2. Housing development organizations operating within a city or county;
3. Housing development organizations operating within a defined region of the state.

#### Rural Set-Aside

The Authority will set aside twenty (20) percent of the annual credit authority for rural areas of the state. Rural areas are defined as those counties that are located outside of a metropolitan statistical area. (RECDS projects will always be considered under the rural set-aside regardless of their location.)

#### Additional Credit Set-Aside

The Authority will set-aside five (5) percent of the annual credit authority for projects receiving a tax credit award in the previous two (2) years which will be placed in service in the current year and need additional tax credit. Only sponsors with developments who will apply for the final allocation for that development in the year that they apply for funding under this set-aside are eligible applicants. Failure to place the development in service in 1996 will result in the loss of 1996 credits from this set-aside. To be eligible for this set-aside, applications must demonstrate contingent feasibility and that the cost increases resulting in the need for the additional credits could not reasonably be anticipated. Project design changes in and of themselves will not be considered as acceptable reasons for cost increases unless mandated by a local unit of government.

#### **User Eligibility Restrictions**

During the competitive application periods, the following conditions apply:

1. No individual project may reserve or receive more than \$700,000 of the annual credit authority available in the calendar year, however, this requirement will not apply to bond-financed developments. (Should sufficient credit authority be available in a given application cycle and upon recommendation from the tax credit staff, this restriction may be waived by the Executive Director.)
2. No project sponsor (including principals or officers of an organization) allocated credit in a previous year [as evidenced by receipt of a carryover allocation or IRS Form(s) 8609] which went unused except for acts of God or events beyond the developer's control (such as the exercise of the power of eminent domain by a governmental body), can apply for additional credit authority in the following credit year. Refusing to pay the required compliance fee, or being found in continuing noncompliance with the Low-Income Housing Credit Program or not in good standing (e.g., delinquent with loan

repayments) with any other GHFA program will also be grounds for a determination of exclusion.

In its sole discretion, however, the Authority may allow a project sponsor who returned tax credits allocated in a previous year to apply for credit on the condition that if the application is approved, the sponsor will pay a fee equal to the reservation fee plus an additional three (3) percent of the credit amount at the time of reservation, with the three (3) percent fee refundable at project completion, upon written request.

### **Application Cycles**

Credit authority will be made available during application cycles. Each cycle will have its own allocation amount, application deadline, and certain set-asides. The following conditions will apply during each cycle:

1. Any credit authority not reserved at the end of one cycle shall be carried over to the next cycle for the same purpose(s).
2. Applicants not selected may choose to compete in a subsequent cycle upon submission of a new application and payment of another application fee.
3. Applications will be evaluated for the amount of credit to be allocated at least three (3) times: when the application is made; when the allocation of the housing credit is made; and the date the building is placed in service. The amount of credit to be allocated may change as a result of these evaluations.

## MONITORING AND REPORTING NONCOMPLIANCE

All project owners are hereby advised that the Authority is required to monitor projects for compliance with the requirements of section 42 of the Code and the representations set forth in the approved application. This requirement applies to all buildings placed in service which have received credit allocations. The plan for monitoring compliance includes the following components:

1. Record keeping and record retention:
  - a. Project owners must keep records for each building in the project as stipulated in 26 CFR Section 1.42-5(b).
  - b. Project owners are required to retain the records described in (a) above 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(s).
2. Certification and review provisions:
  - a. Project owners are required to submit quarterly occupancy reports in a format prescribed by GHFA, together with copies of income certifications for units leased during the previous quarter, until the project has reached ninety (90) percent occupancy.
  - b. Owners of projects of five (5) or more units with ninety (90) percent occupancy are required to submit occupancy reports and income certifications for new tenants and reexamined tenants on a quarterly basis, unless otherwise instructed by the Authority. Projects of less than five (5) units with ninety (90) percent occupancy are exempt from this requirement.
  - c. Owners of projects of less than five (5) low-income units must submit to the Authority on an annual basis a copy of the annual income certification from each low-income tenant and a copy of the documentation supporting the certification.
  - d. Annually through the end of the 15-year compliance period described in section 42(i)(1) and under penalty of perjury, project owners are required to

submit an annual report in a format prescribed by GHFA and the certifications required under 26 CFR Section 1.42-5(c)(1).

e. GHFA will inspect at least twenty (20) percent of low-income housing projects each year and review on-site the low-income tenant income certifications, the documentation the owner has received to support those certifications, and the rent record for each low-income tenant in at least twenty (20) percent or ten (10) units, whichever is greater, of the low-income units in those projects.

3. GHFA has the right to perform an on-site inspection at any time as required of any low-income housing project at least through the end of the compliance period of the buildings in the project. This inspection provision is separate from any review of low-income certifications, supporting documents, and rent records under 26 CFR Section 1.42-5(c) of the regulations.

4. GHFA will provide prompt written notice to the owner of a low-income housing project if it does not receive the required certifications, or it does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records, or it discovers on inspection, review, or in some other manner, that the project is not in compliance with the provisions of section 42 and the representations set forth in the approved application.

5. The owner has an opportunity to supply missing certifications or to correct noncompliance by the due date of the corrected action requested by GHFA. At the discretion of the Authority, an extension of up to six (6) months may be granted, but only if it determines that there is good cause for granting the extension.

6. Compliance with the requirements of section 42 and the representations set forth in the approved application is the responsibility of the owner of the building for which the credit is allowable. GHFA's obligation to monitor for compliance with the requirements of section 42 and the representations set forth in the approved application does not make the Authority liable for an owner's noncompliance. The Owner and Property Manager are responsible for attending a GHFA Compliance Monitoring Training Seminar prior to IRS Form 8609 being executed and preferably no later than Tax Credit Carryover. The attendance at this Training is to be scheduled with GHFA Compliance Monitoring staff at 404-679-4840.

7. The Authority, as required, will file Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance with the Internal Revenue Service no later than forty-five (45) days after the end of the correction period and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected, however, GHFA will issue an immediate 8823 to the IRS for all noncompliance issues involving fraud, health and safety, and suitability for occupancy (physical).
  
8. The Authority will retain records of noncompliance or failure to certify for six (6) years beyond the filing of the respective Form 8823. In all other cases, it will retain the certifications and records described in 26 CFR Section 1.42-5(c) of the regulations for three (3) years from the end of the calendar year it received the certifications and records.

GHFA may choose to delegate monitoring for noncompliance to an agent or other private contractor, which does not relieve it of its obligation to notify the Internal Revenue Service of any noncompliance of which it becomes aware. GHFA may also delegate some or all of its compliance monitoring responsibilities to another agency within the State. This delegation may include the responsibility of notifying the Service of any noncompliance of which it may become aware.

The Service allows owners of projects financed by the Rural and Economic Development Services (RECDS), formerly the Farmers Home Administration (FmHA), under the section 515 program or of buildings of which fifty (50) percent or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under section 103 of the Code (tax-exempt bonds) to be excepted from certain of these procedures. Owners of such projects or buildings will not generally be required to submit monthly or quarterly reports together with tenant income certifications, supporting documentation, and rent records if the Authority enters into an agreement with FmHA or the tax-exempt bond issuer to provide information concerning the income and rent of the tenants in the project to the Authority. Such information must satisfy all requirements of section 42, including any regulations, rulings, or notices issued thereunder, and must also satisfy all requirements imposed by the Authority.

The Authority charges a monitoring fee for all projects containing five (5) or more low-income units. Tax credit recipients will be required to pay the entire fee covering the 15-year compliance

period at the time the credit is finally allocated (special arrangements may be made for qualified nonprofit organizations). Projects financed by RECDS under the section 515 program or with tax-exempt bonds may be charged a lesser fee if a written agreement is in place. GHFA reserves the right to charge an additional fee ("noncompliance fee") to any noncompliance LIHTC development that requires additional monitoring reviews during the compliance period and will be due immediately upon notification. This fee will not exceed \$50 per tax credit assisted unit unless the actual calculation for travel and hours required to bring the development into compliance is greater.

### **MODIFICATION OF PLAN**

Without limiting the generality of the Authority's power and authority to administer, operate, and manage the allocation of Low-Income Housing Credits according to federal law, federal procedures and this Plan, the Authority shall make such determinations and decisions, publish administrative rules, require the use of such forms, establish such procedures and otherwise administer, operate, and manage allocations of tax credit in such respects as may be, in the Authority's determination, necessary, desirable, or incident to its responsibilities as the administrator, operator, and manager of allocations of tax credits. The Governor recognizes and acknowledges that the Authority will encounter situations which have not been foreseen or provided for in the Plan and expressly delegates to the Authority the power and authority to amend the Plan, after the public has had the opportunity to comment through the public hearing process, and to administer, operate, and manage allocations of tax credits in all situations and circumstances, both foreseen and unforeseen, including, without limiting the generality of the foregoing, the power and authority to control and establish procedures for controlling any misuse or abuses of the tax credit allocation system and the power and authority to resolve conflicts, inconsistencies or ambiguities, if any, in this Plan or which may arise in administering, operating, or managing tax credit allocations pursuant to this Plan. Any decision which the Authority makes, and any action or inaction by the Authority in administering, managing and operating the system shall be final and conclusive and shall not be subject to any review, whether judicial, administrative, or otherwise, and shall not be covered by, subject to, or required to comply with or satisfy any provisions of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, the "Georgia Administrative Procedure Act." The Governor further expressly delegates to the Board of Directors of the Authority the ability to amend this Plan to ensure compliance with federal law and regulations as such federal law may be amended and as federal regulations are promulgated governing tax credits.

