GOVERNMENT OF PUERTO RICO
PUERTO RICO HOUSING FINANCE CORPORATION

A SUBSIDIARY OF THE GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO

5785

LOW INCOME HOUSING TAX CREDIT ALLOCATION PLAN

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FOREWORD

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Created in the Tax Reform Act of 1986, the low income tax credit provides an incentive for investors to develop and own low-income housing, targeted to increase the number of available rental units for very low-income families. A 10-year tax credit is available for each unit set-aside for low income use as long as a specific proportion of units in a building or project are occupied by eligible households. The rents charged on the set-aside units are restricted and eligible households must occupy them for at least 15 years, plus a minimum of 15 additional years required by the Puerto Rico Housing Finance Corporation (the Agency).

On August 10, 1993 President Clinton signed the Omnibus Budget Reconciliation Act of 1993, including permanent extensions of the Low Income Housing Tax Credit Program. The act provides an annual volume cap of $1.25 multiplied by the population of Puerto Rico, which currently represents a minimum of approximately $4,402,500 in tax credits per year based on the most recent census (1990).

No. 5785
Date: April 16, 1998 3:21 p.m.
Approved: Norma Burgos
Secretary of State
By: [signature]
Assistant Secretary of State

PUERTO RICO HOUSING FINANCE CORPORATION

A SUBSIDIARY OF THE GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO
STATE CREDIT AGENCY

Low Income Housing Tax Credit Allocation Plan for the Commonwealth of Puerto Rico

I. Legislative Requirements for the State Allocation Plan

The Omnibus Budget Reconciliation Act of 1989 mandated that the housing credit agencies adopt plans for the allocation of the credits among the projects. The Allocation Plan must be approved by the Governor after the public has had the opportunity to comment through a public hearing.

The guidelines and requirements set forth in this Plan will be utilized in the processing of new applications for the program.

II. Internal Revenue Code (IRC) Requirements

The Internal Revenue Code, in its Section 42(m)(1)(B), requires that in the Allocation Plan the housing credit agency, which in the Commonwealth of Puerto Rico is the Puerto Rico Housing Finance Corporation (the Agency), shall:

A. Set forth the selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions;

B. Give preference in allocating housing credit dollar amounts among the selected project to:

1. Projects serving the lowest income tenants, and
2. Projects obligated to serve qualified tenants for the longest periods;

C. Provide a procedure that the Agency will follow in notifying the Internal Revenue Service of non-compliance with the provisions of the tax credit program, if any.

Also, the Internal Revenue code requires in Section 42 (m)(1)(C) that certain selection criteria be included in the plan, such as:

1. Project location,
2. Housing needs characteristics,
3. Project characteristics,
4. Sponsor characteristics,
5. Participation of local tax exempt organizations,
6. Tenant populations with special housing needs, and
7. Public housing waiting lists.

Every project, including those financed with tax exempt bonds issued after December 31, 1989, shall satisfy the requirements for allocation of a housing credit dollar amount under the Agency's Allocation Plan.

III. Housing Needs Assessment

In reviewing the Allocation Plan, the Agency utilized the tables from the 1990 US Census of Housing, an assessment of the housing needs around the Island performed by the Department of Housing of the Commonwealth of Puerto Rico, and their publication *Vivienda: Metas, Objetivos y Programas*, and the most recent Consolidated Plan submitted by the Government of Puerto Rico to the U.S. Department of Housing and Urban Development, dated May, 1995. The Consolidated Plan pursues three main goals for the benefit of low and very low income persons:

- to provide decent housing
- to provide a suitable living environment
- to expand economic opportunities

The Consolidated Plan prepared by the Government of Puerto Rico for years 1995 through 1998 analyzed the Island's housing needs. Its assessment of housing need is summarized as follows:

A. Housing needs arise from the existence of physically inadequate housing, crowded units, high housing costs, housing in floodable areas and housing in areas of danger. Considering only the factors of housing adequacy and crowded housing units a need of 88,571 units is estimated.

B. Demographics changes have been drastic during the past 30 years and they have modified family composition, age structures and population growth rates.

   1. The population of Puerto Rico is aging. It has been estimated that the population under 34 years of age has decreased and the population over 64 years of age or older has maintained a stable growth pattern.
   2. The annual birth rate has decreased.
   3. The Puerto Rican family unit has changed its composition; the number of members per family unit has diminished. Projections by the Department of Housing show that trend will continue.

C. Urban – Rural Distribution

   Today 69% of the housing inventory is classified as Urban according to the census information, while 31% of housing is classified as rural.

D. There is an inadequate supply of affordable rental housing across the island with this problem being relatively more severe in some areas identified in Annex A, *Housing Needs in Puerto Rico.*

E. It is estimated that currently there is a need in Puerto Rico for additional housing for:

1. Female victims of domestic violence in urban and rural areas;
2. Abused children, children abandoned by their parents, children with AIDS;
3. Homeless;
4. Elderly persons;
5. AIDS patients.

F. According to the US Census, about 176,503 units or 17% were estimated to be inadequate in 1990, of which 114,091 may be rehabilitated and 62,412 can not be rehabilitated.[1/]

G. There is a large inventory of housing units that have been repossessed by the government and in need of rehabilitation.

H. There is a need to preserve the Assisted Housing Stock of units available because of the unavailability of new Section 8 Project Based assignment of funds.

[1/]Source: Commonwealth Department of Housing, *Vivienda: Metas, Objetivos y Programas,* August 1990, Table 2, *Total de vivienda y vivienda no adecuada por años censales, p.25.*

I. State and Local government agencies must maximize the use of their resources to create and preserve low income housing.

IV. <u>Establishment of Housing Priorities</u>

In recognition of the housing needs identified above, the Agency has established the following priorities:

A. The development of projects which add new units to the rental housing stock affordable for low income households, especially those with special needs, like:

1. Elderly

2. Handicapped

3. Homeless

4. Female head of family;

B. The development of projects with a larger proportion of units with two or three bedrooms;

C. The development of projects in areas with the greatest need, as defined in Annex A, *Housing Needs in Puerto Rico*;

D. The involvement of tax exempt organizations under Section 501(a) and (c) of the Internal Revenue Code in the development of low income housing projects;

E. Innovative approaches to provide low income housing, including planning, building, financing, and the most efficient use of other public funding provided or to be provided to preserve existing or to develop new low income housing;

F. The development of projects in which the highest percentage of the housing credit dollar amount is used for costs other than the cost of intermediaries;

G. The rehabilitation of properties owned or financed by the government; and

H. Project developments that are placed in service during the same calendar year in which the application for credits is submitted.

I. The preservation of existing Section 8- Project Based Projects.

The purpose of this Allocation Plan is to use the Low Income Housing Tax Credits to the fullest extent possible as a tool for the creation and preservation of housing for low and very low income households through the achievement of the above stated priorities.

V. Project Selection Criteria

A. Initial Submission - Basic Threshold Qualifications

To be considered for a reservation of tax credit an applicant must first submit a complete application, including full payment of application fees and demonstrate that the owner and the project meets the following initial qualifications:

1. The project is or will be a qualified residential rental project which meets the basic occupancy and rent restrictions of Section 42 of the Internal Revenue Code of 1986, as amended, evidenced through the Owners' Certification, the Accountant's Opinion and the Attorney's Opinion. See Annex B, Low Income Housing Tax Credits Program Maximum Income and Rents for 1998.

2. The owner, developer or applicant and their shareholders, directors, officers and partners, as applicable, must demonstrate that they have not been involved in any way (either personally or as shareholders, directors, officers or partners of a corporation, partnership or other form of business organization or joint venture) in any other project for which the Agency has provided any financing and in which a default under the terms and conditions of the applicable financing documents occurred that resulted in the foreclosure of the project or in the substitution of the Owner or any shareholder, director, officer or partner thereof, as applicable.

3. The owner, developer or applicant and their shareholders, directors, officers and partners, as applicable, with previous participation in the program, must demonstrate that they are in compliance with Section 42 requirements and that there is no outstanding finding of non-compliance at the date of filing the application in any other project that received tax credit and in which they have an interest.

4. The readiness to proceed as demonstrated through the following information and/or documents:

   a) Evidence of site control

   b) Evidence of filing Preliminary Development Approval (ARPE: Solicitud Aprobación de Desarrollo Preliminar, Consulta de Ubicación)

   c) The availability of financing evidenced through a letter of intent from financing institution specifying possible terms

d) Development team in place: Identify the architect, general contractor, management agent, and provide copy of their contracts, if available

e) Schematic drawings and outline specifications

f) Cost breakdown signed by contractor

g) The availability of private equity evidenced through a letter of intent from a syndication firm

h) Original of Accountant's Opinion

i) Original of Attorney's opinion.

j) Certificate of Special Partnership

k) Referral Agreement with PHA, if applicable.

l) Tax Payer identification number and IRS evidence.

5. The Owners must also demonstrate their intent to enter into an extended low income housing commitment with the Agency for a minimum of 15 years beyond the initial 15-year compliance period as provided in Section 42 of the Internal Revenue Code.

6. For projects to be sponsored or developed by non-profit organizations:

a) The entity must be a qualified organization as defined in Section 42(h)(5)(C) of the code; and

b) The organization must materially participate in the development and operation of the project throughout the compliance period. This includes, but is not limited to, having an ownership interest in the project and being at least co-general partner.

7. For projects financed or sponsored by the Rural Economic and Community Development (RECD), the RECD commitment letter, identifying the funding amount for the project.

B. Evaluation Criteria

Only those applications meeting all of the above stated initial qualifications applicable to them will be further considered. Project owners whose applications do not meet the initial basic qualifications will be so informed in writing.

The Agency will set-aside 10% of its annual tax credit ceiling for qualified non-profit projects as required by the IRS Code and 5% of its annual tax credit ceiling for troubled projects financed by government agencies. The Agency reserves the rights to adopt and implement such other set-asides as it may deem appropriate, in the future.

Following its determination that a project satisfies all the basic qualification factors, the Agency will consider the qualified applications for a housing credit allocation using the evaluation and point systems established hereinafter. The project can accumulate a total of 260 points on the Point Ranking System hereinafter described. The project must accumulate a minimum of 100 points to be entitled to receive an allocation of credits. The Agency anticipates reserving credits for those projects scoring highest under the Selection Criteria up to the amount permitted by law and this Allocation Plan. However, the ranking under the Selection Criteria does not operate to vest in an applicant or project any right to a reservation or allocation of credits in any amount. Applications from projects that will be placed in service within the calendar year in which the application is submitted will receive a high priority. Likewise, projects returning tax credits from a previous year allocation, which were not placed in service within the established two-year period will receive the lowest priority.

C. Evaluation System

1. Evaluation Factors

Federal legislation precludes the state allocating agencies from allocating credits to a project in any amount beyond that required for the financial feasibility of the project and its viability as a qualified low income housing project throughout the compliance period. To determine the level of allocable credits, the Agency will perform a financial analysis on each application, utilizing the following factors:

a) Development costs, including developer fees;

b) Sources and uses of funds;

c) Projected operating income and expenses; and

d) Projected syndication proceeds.

2. Intermediary Costs

In reviewing applications for financial feasibility, the Agency does not anticipate allowing intermediary costs to exceed 25% of total development costs and will, in any event, give priority to those projects with the lowest intermediary costs. The intermediary costs will include, but are not limited to: Organizational Costs, Developer's Fees (payments of fees to the developer, overhead and profit and consultant fees), Syndication Fees, and Professional Fees (such as architect's, attorney's, and auditor's fees). A maximum of 25 points will be given to a project with intermediary costs below 10% of total development costs.

3. Per Unit Standards

The Corporation hereby adopts the following per unit standards as maximums of the Tax Credit Program:

a) Maximum cost per unit: The cost of a unit will not exceed the following standards:

1. New Construction:

   $90,000

2. Rehabilitation:

   $65,000

b) Maximum Tax Credit per unit: $9,500

4. Maximum Developer Fee

The maximum fee allowed to the developer is 15% of the total development costs. The Developer fee includes the developers' overhead, profit and may include other consultants' fees. To compute the maximum developer fee, total development costs include the cost to purchase the building, site work, construction costs, architectural and engineering fees, interim costs, financing fees and expenses and soft costs. It does not include the cost of purchasing land, syndication costs, project's reserves, working capital and developer fees.

5. General Contractor Maximum Charges

The Corporation hereby adopts the following as maximum builder or general contractor charges:

a) Builders Profit – 6% Construction Costs

b) Builder's overhead - 2% of Construction Costs

c) General Requirements - 2% of Construction Costs

The Developer shall identify the existence of an identity of interest with any other party of the project.

D. Financial Analysis

The Agency is required to conduct three financial analyses:

i) One for the reservation of credits;

ii) another at the time it actually allocates credits to each project; and

iii) the third financial analysis at the time the project is placed in service. Audited development cost certification will be required by the Agency when the project is placed in service.

In allocating a housing credit dollar amount to any building, the Agency will specify the applicable percentage (which at the discretion of the Agency could be lower than the one published by the IRS for the month in which the building was placed in service) and the maximum qualified basis which may be taken into account with respect to such building.

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

E. Notification to Local Chief Executive

The Mayor of the Municipality in which the project is to be located will be notified by the Agency of the proposal at the time of the tax credits' reservation.

F. Lowest Income Tenants and Serving the Tenants During the Longest Term

The federal legislation requires allocating agencies to give preference in allocating the amount of tax credits among eligible projects to those projects serving the lowest income tenants and to those projects committed to serve qualified tenants for the longest period. The Agency will conduct its application review in accordance with these statutory requirements.

G. Selection Criteria

The Agency will use the selection criteria stated below for the purpose of ranking projects eligible for allocation. The results of the evaluation and ranking will be determined at the sole discretion of the Agency and will not be subject to challenge or appeal by the applicant. The numerical ranking does not operate to vest in an applicant or project any right to reservation or allocation of tax credits in any amount. The Agency will, in all instances, reserve and allocate tax credits consistent with its sound and reasonable judgment, prudent business practices, and the exercise of its inherent discretion.

The applications will be ranked according to the following selection criteria:

1. Description of Items

a) Intermediary Costs:

Please refer to page 10 for the definition of intermediary costs.

b) Project Location:

(1) The Agency will give preference to those projects located in a region identified by the Commonwealth Department of Housing as a region with the greatest need;

(2) Projects located in difficult to develop areas designated by the U.S. Department of Housing as an area with high construction costs, land costs, and utility costs relative to the area gross median income projects;

(3) Projects that the owner can demonstrate are located in qualified Census track as designated by the Secretary of HUD;

(4) Projects located in municipalities with the greatest low income housing needs as identified by the Commonwealth Department of Housing. See Annex A.

c) Project Characteristics:

Preference will be given to those projects in which 100% of the units in the project will be dedicated to low income housing; projects in which no relocation is needed; projects with the longest period of time committed to low income housing; projects to be placed in service within the calendar year in which the application for credits is submitted for the first time; project is to acquire and rehabilitate a structure owned or financed by a government agency; project is endorsed by the Local Chief Executive.

d) Housing Needs Characteristics

Preference will be given to those projects, which consist of the larger amounts of two or three bedroom units.

Preference will be given to projects that will rehabilitate inadequate housing or to relocate families living in flash flood areas.

e) Sponsor/Owner Characteristics:

Preference will be given to projects developed by, or with, federal tax exempt entities.

Previous successful participation by sponsor(s) in low-income housing developments located in Puerto Rico will be taken into consideration, as well as previous successful participation by proposed management agents in managing low income housing in Puerto Rico. Owners of other projects for which the Agency has provided financing and in which a default has occurred that resulted in the foreclosure of the mortgaged property or in the assignment of the mortgage to the Agency or in the substitution of the owner occurred, will be penalized.

f) Financing Characteristics:

Preference will be given to projects financed through diverse sources of funds and with innovative financing approaches to maximize the use of scarce resources.

Preference will also be given to projects combining federal, state or local funds to create or preserve low-income housing.

Preference will be given to projects financed under the Rural Economic Community Development Agency programs.

Preference will be given to projects financed by the Puerto Rico Housing Finance Corporation.

g) Tenant Population with Special Housing Needs:

Preference will be given to projects with 100% units for female head of family, HIV-Patients, elderly, homeless, handicapped or disabled families.

h) Public Housing Waiting Lists:

Preference will be given to projects, which commit in writing to give priority to tenants in Public Housing Agencies waiting lists.

i) Use of Syndication Proceeds:

Preference will be given to projects which commit a 100% of net syndication proceeds to generate additional low-income housing units.

j) Returned Credits:

Projects returning or that have returned tax credits from previous years will be penalized.

2. Point Ranking System

a) Intermediary Costs (Maximum: 25 points)

(1) 25 points - Up to 10% of total development cost

(2) 10 points - More than 10%, up to 15% of total development cost

(3) 5 points - More than 15%, up to 25% of total development cost.

b) Project Location (Maximum: 30 points)

(1) 5 points - Project located in a region which reflects the greatest low income housing needs according to the Commonwealth Department of Housing (See the tables included as Annex A). The points will be awarded as follows:

(a) Project located in a region which reflects the greatest needs for low income housing (5 points).

(b) Project located in a region, which reflects the second greatest demand for low income housing (3 points).

(c) Project located in a region, which reflects the third greatest demand for low income housing (1 point).

(2) 5 points – Project located in a difficult to develop area designated by the Secretary of HUD as an area with high construction costs, land costs, and utility costs relative to the area median gross income. (See Annex C for areas designated by HUD as Difficult to Develop Area).

(3) 15 Points- Projects located in a qualified census track. (See Annex C for areas designated by HUD as Qualified Census Tracks).

(4) 5 Points - Project located in a municipality which reflects the greatest low income housing needs in each of the regions identified by the Commonwealth Department of Housing (see Annex A). The points will be awarded as follows:

(a) Project located in a municipality with the greatest demand in the region (5 points).

(b) Project located in a municipality with the second greatest demand in the region (3 points).

(c) Project located in a municipality with the third greatest demand in the region (1 point).

c) Project Characteristics (Maximum 75 points)

(1) (10 points) - All units in the project are targeted for low income families.

(2) (5 points) - No relocation will be necessary.

(3) (10 points) - Longest term of affordability. Projects providing guarantees for longest term of affordability beyond the extended compliance period, will be scored as follows:

(a) At least 10 more years beyond the required 30 years period - 10 points.

(b) At least 5 more years beyond the required 30 years period – 5 point

(4) (25 points) - Project will be placed in service within the calendar year in which the application is submitted for the first time.

(5) (20 points) – Project is to acquire and rehabilitate an existing structure owned or financed by a government agency.

(6) (5 points) - Application includes a letter of endorsement from the mayor of the municipality where the project is located.

d) Housing Needs Characteristics

(Maximum: 10 points)

(1) (5 points) - Project bedroom's distribution is 50% or more 2 or 3-bedroom units.

(2) (5 points) - Projects to rehabilitate inadequate housing or to relocate housing in flash flood areas.

e) Sponsor/Project Owner Characteristics

(Maximum: 20 points)

(1) (10 points) - Sponsor is a federal non-profit entity tax exempt under either Section 501(c) 3 or Section 501(c) 4 of the IRS Code.

(2) (5 points) - Applicant can demonstrate successful past experience in the development of similar low income projects in Puerto Rico.

(3) (5 points) - Proposed management agent can demonstrate successful past experience in the management of similar low -income projects in Puerto Rico.

(4) (less 20 points) – Sponsor, owner or developer has defaulted a financing provided by the Agency and

such default resulted in foreclosure, assignment of mortgage or substitution of mortgagor.

f) Financing Characteristics (Maximum: 45 points)

(1) (15 points) - Tax exempt financing provided under Section 103 of the IRS Code or tax exempt financing under the Commonwealth of Puerto Rico Income Tax Law.

(2) (15 points) - Innovative financing proposals to provide or develop low income housing through the most efficient use of funds. Project will utilize several funding sources, such as federal, state and local grants. Combining Home, CDBG and other federal, state or local resources.

(3) (15 points) – Projects financed under RECD programs.

(4) (15 points) – Projects financed by the Puerto Rico Housing Finance Corporation.

g) (25 points) - Tenant Population with Special Housing Needs

Project will be dedicated 100% to one of the following special needs families:

a) to female head of family;

b) Elderly;

c) Disabled or handicapped;

d) HIV-positive patients

h) (10 points) – Public Housing Waiting Lists

Projects in which preference is given to families on public housing waiting lists. A referral agreement with the local or state PHA must be included with the application.

i) Use of Syndication Proceeds

(Maximum: 20 points)

(1) (20 points) - Sponsor or owner which commits a 100% of net syndication proceeds (which shall consist of total syndication proceeds less placement(s) fee(s) to generate additional low-income units.

(2) (5 points) - Sponsor or owner which commits at least 50% of net syndication proceeds to generate additional low-income units.

H. Returned Credits (less 25 points)

Projects returning or that have returned tax credits from previous years which were not placed in service within the established two-year period will be penalized by losing 25 points.

VI. Application Cycles

A. Credit Allocation Charged to State Volume Cap for a Current Taxable Year

Applicants may apply to receive a credit allocation for a certain project in one of the cycles to be opened by the Agency, as shown below. The time frame for submission of applications and the maximum portion of credits to be allocated during each cycle will be as follows:

	Cycle I	Cycle II	Cycle III
Applications Closing Date	January 31	May 31	September 30
Ranking & Reservations	March 31	July 31	November 30
Closing of Allocations	April 30	August 31	December 30
Minimum Cap Available	33%	66%	86%
Maximum Cap Available	65%	85%	100%

If any of the due dates for application or reservation falls on a non-working day or on an official holiday, it will be moved to the previous working day. The Agency will notify its preliminary determination on its review for compliance with the Basic Threshold Qualifications, within the succeeding fifteen business days from the applications closing date.

Starting with the second cycle, the Agency will add the remaining balance of the prior cycle to the credits available for the next cycle. In each cycle the same set-aside percentages will be established for the set-aside amounts.

The Agency also reserves the right to change the date for any of the herein-established cycles with prior notice to the public in a newspaper of general circulation.

B. <u>Credit Allocation Charged to State Volume Cap for Subsequent Taxable Year</u>

Applicants may apply to reserve credits, and enter into a binding commitment with the Agency to allocate credits at a future date, for a certain project after the agency ceiling for the current year has been reached. To such end, the Agency may reserve credits or bind itself to allocate credits to a project during the taxable year immediately following the year in which the application is made; provided, that such credit shall be allocated and used in the taxable year immediately following the year in which the application is made and that no carryover of such credit will not be allowed. As mandated in Section 42 (h) (1) (C) of the Code, a reservation or binding commitment to allocate credits in a future year has no effect on the state housing credit ceiling until the year in which the Agency actually makes the allocation. See Annex C for an example of the Binding Commitment. To be considered for a reservation of credits from future year cap or for a binding commitment to allocate credits at a future date, the applicant must demonstrate that the project falls within one of the following categories:

1. Credit is deemed necessary to facilitate the restructuring of financing provided to a project confronting economic difficulties.
2. Credit is deemed necessary to preserve the low-income housing status of the project or to maintain the total number of available low-income housing units within Puerto Rico.
3. Credit is requested in connection with the acquisition of a project from the federal, state or local governments, or any department, agency, entity or political subdivision thereof.

C. Resubmission of Application During Same Calendar Year

If an application does not receive a reservation during a cycle, the applicant may resubmit the application, with no changes, during the same calendar year and not be required to pay an additional application, with no changes, during the same calendar year and not be required to pay an additional application fee, unless the next reservation cycle falls in the subsequent calendar year, and therefore, a new application filling fee shall be required Applicants should carefully review the application to determine if any new or updated documents are necessary.

VII. Tax-exempt Financed Projects Not Subject To State Volume Cap

Projects financed with tax-exempt obligations issued after December 31, 1989 (Section 42(h) (4)) must satisfy the Basic Threshold Qualification Requirements and other requirements for allocation under this Plan.

These projects will be subject to the evaluation of housing priorities, and minimum thresholds discussed above and the fees determined in Section VIII. They will not be subject to the credit allocation cycles. Applicant must include with the application a letter from the lender stating the tax-exempt status of the obligations issued to finance the project.

VIII. Procedure for Notification to IRS of Noncompliance

The federal legislation requires that each Allocation Plan include a procedure which the credit agency will follow in notifying the Internal Revenue Service of noncompliance with the program. To satisfy that mandate, the Agency will require developers to furnish annual certifications of qualified low income tenants, including tenant income and rents charged, and the number of qualifying low income units, as well as any other information pertinent to determine compliance with the program.

The specific requirements of the Agency to fulfill this mandate are covered in the Compliance Monitoring Plan, which is hereby incorporated and made a part of this Plan as Annex D.

The Agency reserves the right to conduct on-site compliance monitoring as deemed necessary at any time during the compliance period and as specified in the Compliance Monitoring Plan. The owner must allow the Agency to have access to the project's premises and the books, documents, papers, and records of the project.

IX. Fees

Any person interested in obtaining an application for Low Income Housing Tax Credits will request so in writing to the Agency. An application package containing the Allocation Plan, the Compliance Monitoring Plan and the Procedural Steps and Application Instructions will be delivered after payment of $50.

The Agency will charge the following fees:

A. Application Fee: One percent (1%) of the yearly requested amount. This is a non-refundable deposit, which shall be submitted along with the application.

B. Allocating Fee: One percent (1%) of the total ten years allocated amount. The allocating fee will be paid at the time the allocation is made. In case of carryover allocations under Section 42, the fee will be paid at the time of signing the agreement.

C. Monitoring Fee: If a housing credit allocation is made, the Agency will charge one half of 1% of each year's allocated amount as monitoring fee. This amount will be due and payable by January 31 of each year during the compliance period.

D. The amounts hereby established may be revised by the Agency from time to time as necessary to insure that such fees cover the agency's administrative expenses for processing applications and monitoring projects for compliance.

X. Limitations

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

The Plan acknowledges that the Agency will encounter situations which have not been foreseen or provided for in the Plan. The Agency reserves the power and authority to amend the Plan after the public has had the opportunity to comment. The Agency also reserves the power authority to administer, operate and manage tax credits allocation in all situations and circumstances, both foreseen or unforeseen in the Plan.

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

S:/ MARCOS RODRIGUEZ-EMA
MARCOS RODRIGUEZ-EMA
PRESIDENT
PUERTO RICO HOUSING FINANCE
CORPORATION

I, Pedro Rosselló González, Governor of the Commonwealth of Puerto Rico, hereby approve the Low Income Housing Tax Credit Allocation Plan for the Commonwealth of Puerto Rico adopted by the Puerto Rico Housing Finance Corporation, a subsidiary of the Government Development Bank for Puerto Rico, as the State Housing Credit Agency under the provisions of Section 42 of the Internal Revenue Code of 1986, as amended by the Omnibus Budget Reconciliation Act of 1989.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Commonwealth of Puerto Rico, in San Juan, Puerto Rico, this 9 day of April, 1998

Pedro Rosselló

S:/ PEDRO ROSSELLO GONZALEZ
PEDRO ROSSELLO GONZALEZ
GOVERNOR

PUERTO RICO HOUSING FINANCE CORPORATION
STATE CREDIT AGENCY

HOUSING NEEDS IN PUERTO RIO

ANNEX A TO THE
LOW INCOME HOUSING TAX CREDIT ALLOCATION PLAN

HOUSING NEEDS IN PUERTO RICO
BY REGION

REGION	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEED 1995
Arecibo	392,241	130,788	8,724	10,911	19,639
Ponce	348,673	122,205	7,551	11,588	19,139
Carolina	415,823	141,601	12,880	5,322	18,202
Humacao	317,600	103,752	8,709	8,132	16,841
Bayamón	521,597	164,519	6,614	8,074	14,688
Caguas	348,673	112,241	4,099	7,300	11,399
San Juan	530,631	119,431	4,146	6,297	10,443
Aguadilla	294,005	99,039	2,466	7,592	10,058
Mayaguez	312,734	114,409	1,044	8,053	9,097
TOTAL	**3,481,977**	**1,107,985**	**56,233**	**73,269**	**129,506**

Source: Columns 1 and 2 - US Census of Housing 1990
Columns 3, 4 and 5 - Commonwealth Department of Housing
CHAS Annual Plan 1992 - 1993
Table VII, "Housing Needs by Municipality 1995,
All Municipalities Arranged by Housing Needs"

HOUSING NEEDS WITHIN ARECIBO REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Arecibo	93,385	32,458	890	2,921	3,811
Utuado	34,980	11,812	1,962	1,299	3,261
Vega Alta	34,559	11,161	2,437	670	3,107
Vega Baja	55,997	18,318	1,121	1,099	2,220
Manatí	38,692	13,337	475	933	1,408
Hatillo	32,703	10,815	412	865	1,277
Ciales	18,084	5,727	228	1,031	1,259
Morovis	25,288	7,371	476	737	1,213
Camuy	28,917	9,665	285	677	962
Barceloneta	20,947	7,221	247	505	752
Florida	8,689	2,903	191	174	369
TOTAL	**392,241**	**130,788**	**8,724**	**10,911**	**19,639**

HOUSING NEEDS WITHIN PONCE REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Ponce	187,749	60,212	2,544	4,817	7,361
Peñuelas	22,515	6,821	2,039	682	2,721
Juana Díaz	45,198	13,496	747	1,485	2,232
Guayanilla	21,581	6,922	561	900	1,461
Villalba	23,559	6,666	580	800	1,380
Adjuntas	19,451	6,283	302	1,005	1,307
Santa Isabel	19,318	6,315	271	695	966
Coamo	33,837	10,917	266	655	921
Jayuya	15,527	4,573	241	549	790
TOTAL	**388,735**	**122,205**	**7,551**	**11,588**	**19,139**

Source: Columns 1 and 2 - US Census of Housing 1990
Columns 3, 4 and 5 - Commonwealth Department of Housing
CHAS Annual Plan 1992 - 1993,
Table VII, "Housing Needs by Municipality 1995,
All Municipalities Arranged by Housing Needs"

HOUSING NEEDS WITHIN CAROLINA REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Loiza	29,307	8,310	2,286	499	2,785
Fajardo	36,882	13,864	2,162	555	2,717
Río Grande	45,648	15,078	1,549	1,055	2,604
Canóvanas	36,816	11,614	1,656	581	2,237
Carolina	177,806	61,903	849	1,238	2,087
Trujillo Alto	61,120	19,315	1,473	579	2,052
Vieques	8,602	3,329	1,709	200	1,909
Luquillo	18,100	7,530	914	602	1,516
Culebra	1,542	658	282	13	295
TOTAL	**415,823**	**141,601**	**12,880**	**5,322**	**18,202**

HOUSING NEEDS WITHIN HUMACAO REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Humacao	55,203	18,342	1,778	917	2,695
San Lorenzo	35,163	11,391	1,256	797	2,053
Naguabo	22,620	7,691	1,556	385	1,941
Guayama	41,588	13,595	421	1,495	1,916
Juncos	30,612	10,235	875	921	1,796
Las Piedras	27,896	8,802	916	528	1,444
Yabucoa	36,483	11,262	395	1,014	1,409
Ceiba	17,145	5,525	1,148	221	1,369
Patillas	19,633	6,601	15	990	1,005
Maunabo	12,347	3,881	167	543	710
Arroyo	18,910	6,427	182	321	503
TOTAL	**317,600**	**103,752**	**8,709**	**8,132**	**16,841**

Source: Columns 1 and 2 - US Census of Housing 1990
Columns 3, 4 and 5 - Commonwealth Department of Housing
CHAS Annual Plan 1992 - 1993,
Table VII, "Housing Needs by Municipality 1995,
All Municipalities Arranged by Housing Needs"

HOUSING NEEDS WITHIN BAYAMON REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Toa Baja	89,454	28,008	1,302	1,680	2,982
Bayamón	220,262	70,689	751	1,414	2,165
Toa Alta	44,101	13,376	1,034	936	1,970
Corozal	33,095	9,941	798	696	1,494
Dorado	30,759	10,499	462	945	1,407
Naranjito	27,914	8,576	649	686	1,335
Comerio	20,265	6,338	496	824	1,320
Cataño	34,587	10,744	762	322	1,084
Orocovis	21,158	6,348	360	571	931
TOTAL	**521,595**	**164,519**	**6,614**	**8,074**	**14,688**

HOUSING NEEDS WITHIN CAGUAS REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Caguas	133,447	43,293	1,254	1,299	2,553
Aguas Buenas	25,424	8,038	748	884	1,632
Cidra	35,601	10,693	537	962	1,499
Cayey	46,553	15,385	202	1,231	1,433
Gurabo	28,737	9,366	693	656	1,349
Aibonito	24,971	7,847	532	706	1,238
Barranquitas	25,605	7,622	231	762	993
Salinas	28,335	9,997	(98)	800	702
TOTAL	**348,673**	**112,241**	**4,099**	**7,300**	**11,399**

Source: Columns 1 and 2 - US Census of Housing 1990
Columns 3, 4 and 5 - Commonwealth Department of Housing
CHAS Annual Plan 1992 - 1993,
Table VII, "Housing Needs by Municipality 1995,
All Municipalities Arranged by Housing Needs"

HOUSING NEEDS WITHIN SAN JUAN REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
San Juan	437,745	167,979	4,151	5,039	9,190
Guaynabo	92,886	31,452	(5)	1,258	1,253
TOTAL	**530,631**	**199,431**	**4,146**	**6,297**	**10,443**

HOUSING NEEDS WITHIN AGUADILLA REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Aguadilla	59,335	20,761	763	1,246	2,009
Añasco	25,234	7,523	1,312	602	1,914
Moca	32,926	10,454	261	941	1,202
Isabela	39,147	13,497	212	945	1,157
San Sebastián	38,799	13,536	152	947	1,099
Aguada	35,911	11,853	(266)	1,304	1,038
Lares	29,015	9,324	104	932	1,036
Quebradillas	21,425	7,105	30	426	456
Rincón	12,213	4,986	(102)	249	147
TOTAL	**294,005**	**99,039**	**2,466**	**7,592**	**10,058**

Source: Columns 1 and 2 - US Census of Housing 1990
Columns 3, 4 and 5 - Commonwealth Department of Housing
CHAS Annual Plan 1992 - 1993,
Table VII, "Housing Needs by Municipality 1995,
All Municipalities Arranged by Housing Needs"

HOUSING NEEDS WITHIN MAYAGUEZ REGION

MUNICIPALITY	POPULATION	HOUSING INVENTORY	UNITS NEEDED FOR POP. GROWTH	UNITS UNFIT FOR REHAB. 1995	HOUSING NEEDS 1995
Mayaguez	100,371	35,948	1,153	1,797	2,950
Yauco	42,058	14,082	(3)	1,267	1,264
Cabo Rojo	38,521	16,645	(486)	1,332	846
Sabana Grande	22,843	8,133	52	732	784
Guánica	19,984	7,563	102	681	783
Lajas	23,271	8,865	237	532	769
Las Marias	9,306	3,204	74	545	619
San Germán	34,962	12,409	(157)	620	463
Maricao	6,206	2,289	(20)	389	369
Hormigueros	15,212	5,271	92	158	250
TOTAL	**312,734**	**114,409**	**1,044**	**8,053**	**9,097**

Source: Columns 1 and 2 - US Census of Housing 1990
Columns 3, 4 and 5 - Commonwealth Department of Housing
CHAS Annual Plan 1992 - 1993,
Table VII, "Housing Needs by Municipality 1995,
All Municipalities Arranged by Housing Needs"

federal register

Tuesday
October 21, 1997

Part III

Department of Housing and Urban Development

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4287–N–01]

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document provides revised designations of "Difficult Development Areas" for purposes of the Low-Income Housing Tax Credit ("LIHTC") under section 42 of the Internal Revenue Code of 1986, and describes the methodology used by the United States Department of Housing and Urban Development ("HUD"). The new Difficult Development Areas are based on FY 1997 Fair Market Rents ("FMRs"), FY 1997 income limits and 1990 census population counts as explained below. The corrected designations of "Qualified Census Tracts" under section 42 of the Internal Revenue Code published May 1, 1995 (60 FR 21246) remain in effect.

FOR FURTHER INFORMATION CONTACT: With questions on how areas are designated and on geographic definitions, Kurt G. Usowski, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0426, e-mail Kurt_G._Usowski@hud.gov. With specific legal questions pertaining to section 42 and this notice, Chris Wilson, Attorney, Office of the Chief Counsel, Pass Throughs and Special Industries Branch 5, Internal Revenue Service, 1111 Constitution Ave, NW, Washington, DC 20244, telephone (202) 622–3040, fax (202) 622–4779; or Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–3260, e-mail H._JERRY_GROSS@hud.gov. A telecommunications device for deaf persons (TTY) is available at (202) 708–9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUDUSER at (800) 245–2691 for a small fee to cover duplication and mailing costs.

COPIES AVAILABLE ELECTRONICALLY: This notice is available electronically on the Internet (World Wide Web) at http://www.huduser.org/ under the heading "Data Available from HUD."

SUPPLEMENTARY INFORMATION:

Background

The U.S. Treasury Department and the Internal Revenue Service thereof are authorized to interpret and enforce the provisions of the Internal Revenue Code of 1986 (the "Code"), including the Low-Income Housing Tax Credit ("LIHTC") found at section 42 of the Code, as enacted by the Tax Reform Act of 1986 (Pub. L. 99–514), as amended by the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647), as amended by the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239), as amended by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), as amended by the Tax Extension Act of 1991 (Pub. L. 102–227), and as amended and made permanent by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). The Secretary of HUD is required to designate Difficult Development Areas by section 42(d)(5)(C) of the Code.

In order to assist in understanding HUD's mandated designation of Difficult Development Areas for use in administering section 42 of the Code, a summary of section 42 is provided. The following summary does not purport to bind the Treasury or the IRS in any way, nor does it purport to bind HUD as HUD has no authority to interpret or administer the Code, except in those instances where it has a specific delegation.

Summary of Low Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (the "credit ceiling") is limited by population. Each state is allocated credit based on $1.25 per resident. Also, states may carry forward unused or returned credit for one year; if not used by then, credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit.

The credit allocated to a building is based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: Either 20 percent of units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the Area Median Gross Income ("AMGI"), or 40 percent of units must be rent restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term *rent-restricted* means that gross rent, including an allowance for utilities, cannot exceed 30 percent of the tenant's imputed income limitation (i.e., 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either (1) 70 percent of the "qualified basis" for new construction or substantial rehabilitation expenditures that are not federally subsidized (i.e., financed with tax-exempt bonds or below-market federal loans), or (2) 30 percent of the qualified basis for the acquisition of existing projects or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credit up to a deduction equivalent of $25,000. This equals $9,900 at the 39.6 percent maximum marginal tax rate. Individuals cannot use the credit against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credit against ordinary income tax. They cannot use the credit against the alternative minimum tax. These corporations can also deduct the losses from the project.

The qualified basis represents the product of the "applicable fraction" of the building and the "eligible basis" of the building. The applicable fraction is based on the number of low income units in the building as a percentage of the total number of units, or based on the floor space of low income units as a percentage of the total floor space in the building. The eligible basis is the adjusted basis attributable to acquisition, rehabilitation, or new construction costs (depending on the type of LIHTC involved). These costs include amounts chargeable to capital account incurred prior to the end of the first taxable year in which the qualified low income building is placed in service or, at the election of the taxpayer, the end of the succeeding taxable year. In the case of buildings located in designated Qualified Census Tracts or designated Difficult Development Areas, eligible basis can be increased up to 130 percent of what it would otherwise be. This means that the available credit also can be increased by up to 30 percent. For example, if the 70 percent credit is available, it effectively could be increased up to 91 percent.

Under section 42(d)(5)(C) of the Code, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income less than 60 percent of the AMGI. There is a limit on the amount of Qualified Census Tracts in any Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA") that may be designated to receive an increase in eligible basis: All of the designated census tracts within a given MSA/PMSA may not together contain more than 20 percent of the total population of the MSA/PMSA. For purposes of HUD designations of Qualified Census Tracts, all non-metropolitan areas in a state are treated as if they constituted a single metropolitan area. This Notice does not redesignate Qualified Census Tracts. The corrected designation of Qualified Census Tracts published May 1, 1995, at 60 FR 21246 remains in effect. Qualified Census Tracts will not be redesignated until data from the 2000 census become available.

Section 42 defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. Again, limits apply. All designated Difficult Development Areas in MSAs/PMSAs may not contain more than 20 percent of the aggregate population of all MSAs/PMSAs, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all non-metropolitan counties.

Explanation of HUD Designation Methodology

A. Difficult Development Areas

In developing the list of Difficult Development Areas, HUD compared incomes with housing costs. HUD used 1990 Census data and the MSA/PMSA definitions as published by the Office of Management and Budget ("OMB") in OMB Bulletin No. 96–08 on June 28, 1996, *with the exceptions described in section C., below.* The basis for these comparisons was the fiscal year ("FY") 1997 HUD income limits for Very Low Income households ("VLILs") and Fair Market Rents ("FMRs") used for the section 8 Housing Assistance Payments Program. The procedure used in making these calculations follows:

1. For each MSA/PMSA and each non-metropolitan county, a ratio was calculated. This calculation used the FY 1997 two-bedroom FMR and the FY 1997 four-person VLIL. The numerator of the ratio was the area's FY 1997 FMR. The denominator of the ratio was the monthly LIHTC income-based rent limit calculated as 1/12 of 30 percent of 120 percent of the area's VLIL (where 120 percent of the VLIL was rounded to the nearest $50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent of AMGI base).
2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for MSAs/PMSAs and for non-metropolitan counties.
3. The Difficult Development Areas are those with the highest ratios cumulative to 20 percent of the 1990 population of all metropolitan areas and of all non-metropolitan counties.

B. Application of Population Caps to Difficult Development Area Determinations

In identifying Difficult Development Areas, HUD applied various caps, or limitations, as noted above. The cumulative population of metropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all metropolitan areas and the cumulative population of nonmetropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all nonmetropolitan counties.

In applying these caps, HUD established procedures to deal with how to treat small overruns of the caps. The remainder of this section explains the procedure. In general, HUD stops selecting areas when it is impossible to choose another area without exceeding the applicable cap. The only exceptions to this policy are when the next eligible excluded area contains either a large absolute population or a large percentage of the total population, or the next excluded area's ranking ratio as described above was identical (to three decimal places) to the last area selected, and its inclusion resulted in only a minor overrun of the cap. Thus for both the designated metropolitan and nonmetropolitan Difficult Development Areas there are minimal overruns of the caps. HUD believes the designation of these additional areas is consistent with the intent of the legislation. Some latitude is justifiable because it is impossible to determine whether the 20 percent cap has been exceeded, as long as the apparent excess is small, due to measurement error. Despite the care and effort involved in a decennial census, it is recognized by the Census Bureau, and all users of the data, that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20 percent cap. In circumstances where a strict application of a 20 percent cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting *small* variances above the 20 percent limit.

C. Exceptions to OMB Definitions of MSAs/PMSAs and Other Geographic Matters

As stated in OMB Bulletin 96–08 defining metropolitan areas: "OMB establishes and maintains the definitions of the (Metropolitan Areas) MAs solely for statistical purposes * * * OMB does not take into account or attempt to anticipate any nonstatistical uses that may be made of the definitions * * * We recognize that some legislation specifies the use of metropolitan areas for programmatic purposes, including allocating Federal funds."

HUD makes exceptions to OMB definitions in calculating FMRs by deleting counties from metropolitan areas whose OMB definitions are determined by HUD to be larger than their housing market areas. In addition, HUD is required by statute to calculate a separate FMR and VLIL for Westchester County, New York, which OMB includes as part of the New York, NY PMSA. The following counties are assigned their own FMRs and VLILs and evaluated as if they were separate metropolitan areas for purposes of designating Difficult Development Areas.

Metropolitan Area and Counties Deleted

Atlanta, GA: Carrol, Pickens, and Walton Counties.
Chicago, IL: DeKalb, Grundy, and Kendall Counties.
Cincinnati-Hamilton, OH–KY–IN: Brown County, Ohio; Gallatin, Grant, and Pendleton Counties, Kentucky; and Ohio County, Indiana.
Dallas, TX: Henderson County.
Flagstaff, AZ–UT: Kane County, Utah.
New York, NY: Westchester County.
New Orleans, LA: St. James Parish.
Washington, DC–MD–VA–WV: Clarke, Culpeper, King George, and Warren Counties, Virginia; and Berkely and Jefferson Counties, West Virginia.

Affected MSAs/PMSAs are assigned the indicator "(part)" in the list of

Metropolitan Difficult Development Areas. Any of the excluded counties designated as difficult development areas separately from their metropolitan areas are designated by the county name.

Finally, in the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) OMB defines MSAs/PMSAs according to county subdivisions or Minor Civil Divisions ("MCDs") rather than county boundaries. Thus, when a New England county is designated as a Nonmetropolitan Difficult Development Area, only that part of the county (the group of MCDs) not included in any MSA/PMSA is the Nonmetropolitan Difficult Development Area. Affected counties are assigned the indicator "(part)" in the list of Nonmetropolitan Difficult Development Areas.

For the convenience of readers of this Notice, the geographic definitions of designated Metropolitan Difficult Development Areas and the MCDs included in Nonmetropolitan Difficult Development Areas in the New England states are included in the list of Difficult Development Areas.

Future Designations

Difficult Development Areas are designated annually as updated income and FMR data become available. Qualified Census Tracts will not be redesignated until data from the 2000 census become available.

Effective Date

The list of Difficult Development Areas is effective for allocations of credit made after December 31, 1997. In the case of a building described in Internal Revenue Code section 42(h)(4)(B), the list is effective if the bonds are issued and the building is placed in service after December 31, 1997. The corrected designations of Qualified Census Tracts published May 1, 1995, at 60 FR 21246 remain in effect.

Interpretive Examples for Effective Date

For the convenience of readers of this Notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose Difficult Development Area status with respect to projects described in Internal Revenue Code section 42(h)(4)(B).

(Case A) Project "A" is located in a newly-designated 1998 Difficult Development Area. Bonds are issued for Project "A" on November 1, 1997, but Project "A" is placed in service March 1, 1998. Project "A" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the bonds were issued BEFORE December 31, 1997.

(Case B) Project "B" is located in a newly-designated 1998 Difficult Development Area. Project "B" is placed in service November 15, 1997. The bonds which will support the permanent financing of Project "B" are issued January 15, 1998. Project "B" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the project was placed in service BEFORE December 31, 1997.

(Case C) Project "C" is located in an area which is a Difficult Development Area in 1998, but IS NOT a Difficult Development Area in 1999. Bonds are issued for Project "C" on October 30, 1998, but Project "C" is not placed in service until March 30, 1999. Project "C" is eligible for the increase in basis available to projects located in 1998 Difficult Development Areas because both events (bonds issued and project placed in service) have occurred AFTER December 31, 1997.

Other Matters

Environmental Impact

In accordance with 40 CFR 1508.4 of the CEQ regulations and 24 CFR 50.20 of the HUD regulations, the policies and actions in this notice are determined not to have the potential of having a significant impact on the quality of human environment and therefore further environmental review under the National Environmental Policy Act is not necessary.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities. The notice involves the designation of "Difficult Development Areas" for use by political subdivisions of the States in allocating the LIHTC, as required by section 42 of the Code, as amended. This notice places no new requirements on the States, their political subdivisions, or the applicants for the credit. This notice also details the technical methodology used in making such designations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have any substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the order. The notice merely designates "Difficult Development Areas" for the use by political subdivisions of the States in allocating the LIHTC, as required under section 42 of the Internal Revenue Code, as amended. The notice also details the technical methodology used in making such designations.

Dated: October 14, 1997.

Andrew M. Cuomo,

Secretary.

BILLING CODE 4210–32–P

1998 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
AZ	FLAGSTAFF, AZ (part) Coconino County, AZ	YUMA, AZ Yuma County		
CA	BAKERSFIELD, CA Kern County	CHICO-PARADISE, CA Butte County	FRESNO, CA Fresno County Madera County	LOS ANGELES-LONG BEACH, CA Los Angeles County SAN LUIS OBISPO-ATASCADERO-PASO ROBLES, CA San Luis Obispo County
	MERCED, CA Merced County	SALINAS, CA Monterey County	SAN FRANCISCO, CA San Francisco County Marin County San Mateo County	
	SANTA BARBARA-SANTA MARIA-LOMPOC, CA Santa Barbara County	SANTA CRUZ-WATSONVILLE, CA Santa Cruz County	SANTA ROSA, CA Sonoma County	STOCKTON-LODI, CA San Joaquin County
CT	NEW HAVEN-MERIDEN, CT Bethany town Killingworth town Branford town Meriden city Cheshire town New Haven city Clinton town North Branford town East Haven town North Haven town Guilford town Orange town Hamden town Wallingford town Madison town West Haven city Woodbridge town			
DE	DOVER, DE Kent County			
FL	DAYTONA BEACH, FL Flagler County Volusia County	FORT LAUDERDALE, FL Broward County	FORT MYERS-CAPE CORAL, FL Lee County	FORT PIERCE-PORT LUCIE, FL Martin County St. Lucie County
	MIAMI, FL Dade County	OCALA, FL Marion County	ORLANDO, FL Lake County Osceola County Orange County Seminole County	PUNTA GORDA, FL Charlotte County
	SARASOTA-BRADENTON, FL Manatee County Sarasota County			
HI	HONOLULU, HI Honolulu County			
MA	BARNSTABLE-YARMOUTH, MA Barnstable city Harwich town Brewster town Mashpee town Chatham town Orleans town Dennis town Sandwich town Eastham town Yarmouth town			

1998 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas (cont.)

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
NJ	ATLANTIC-CAPE MAY, NJ Atlantic County Cape May County	JERSEY CITY, NJ Hudson County	MONMOUTH-OCEAN, NJ Monmouth County Ocean County	VINELAND-MILLVILLE-BRIDGETON, NJ Cumberland County
NY	DUTCHESS COUNTY, NY Duchess County WESTCHESTER COUNTY, NY Westchester County	NASSAU-SUFFOLK, NY Nassau County Suffolk County	NEW YORK, NY (part) Bronx County Queens County Kings County Richmond County New York County Rockland County Putnam County	NEWBURGH, NY-PA Pike County, PA Orange County, NY
OR	EUGENE-SPRINGFIELD, OR Lane County	MEDFORD-ASHLAND, OR Jackson County		
PA	STATE COLLEGE, PA Centre County			
PR	AGUADILLA, PR Aguada Municipio Aguadilla Municipio Moca Municipio	CAGUAS, PR Caguas Municipio Gurabo Municipio Cayey Municipio San Lorenzo Mun. Cidra Municipio	MAYAGUEZ, PR Anasco Municipio Mayaguez Municipio Cabo Rojo Mun. Sabana Grande Mu. Hormigueros Mun. San German Mun.	SAN JUAN-BAYAMON, PR Aguas Buenas Mu. Corozal Municipio Barceloneta Mun. Dorado Municipio Bayamon Mun. Fajardo Municipio Canovanas Mun. Florida Municipio Carolina Municipio Guaynabo Municipio San Juan Mun. Humacao Municipio Toa Alta Municipio Juncos Municipio Toa Baja Mun. Las Piedras Mun. Trujillo Alto Mun. Loiza Municipio Vega Alta Mun. Luquillo Municipio Vega Baja Mun. Manati Municipio Yabucoa Municipio Morovis Municipio Catano Municipio Naguabo Municipio Ceiba Municipio Naranjito Municipio Comerio Municipio Rio Grande Mun.
SC	MYRTLE BEACH, SC Horry County			

1998 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas (cont.)

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
TX	BROWNSVILLE-HARLINGEN-SAN BENITO, TX Cameron County	EL PASO, TX El Paso County	LAREDO, TX Webb County	
WA	BELLINGHAM, WA Whatcom County	RICHLAND-KENNEWICK-PASCO, WA Benton County Franklin County	YAKIMA, WA Yakima County	

1998 Internal Revenue Code Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

STATE	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT
PI	PACIFIC ISLANDS			
PR	All			
VI	St. Croix	St. Johns/St. Thomas		
AK	BETHEL CENSUS AREA	DILLINGHAM CENSUS AREA	FAIRBANKS NORTH STAR BOROUGH	HAINES BOROUGH
	JUNEAU BOROUGH	KETCHIKAN GATEWAY BOROUGH	KODIAK ISLAND BOROUGH	LAKE AND PENINSULA BOROUGH
	MATANUSKA-SUSITNA BOROUGH	NOME CENSUS AREA	NORTH SLOPE BOROUGH	NORTHWEST ARCTIC BOROUGH
	PRINCE OF WALES-OUTER KETCHIKAN CENSUS AREA	SITKA BOROUGH	WADE HAMPTON CENSUS AREA	YUKON-KOYUKUK CENSUS AREA
AR	BAXTER COUNTY	DREW COUNTY		
AZ	APACHE COUNTY	COCHISE COUNTY	GILA COUNTY	GRAHAM COUNTY
	LA PAZ COUNTY	NAVAJO COUNTY	SANTA CRUZ COUNTY	YAVAPAI COUNTY
CA	ALPINE COUNTY	AMADOR COUNTY	CALAVERAS COUNTY	COLUSA COUNTY
	DEL NORTE COUNTY	GLENN COUNTY	HUMBOLDT COUNTY	IMPERIAL COUNTY
	INYO COUNTY	KINGS COUNTY	LAKE COUNTY	MARIPOSA COUNTY
	MENDOCINO COUNTY	MODOC COUNTY	MONO COUNTY	NEVADA COUNTY
	PLUMAS COUNTY	SAN BENITO COUNTY	SIERRA COUNTY	SISKIYOU COUNTY
	TEHAMA COUNTY	TRINITY COUNTY	TUOLUMNE COUNTY	
CO	ARCHULETA COUNTY	GARFIELD COUNTY	LA PLATA COUNTY	PARK COUNTY
	PITKIN COUNTY	SAN MIGUEL COUNTY	SUMMIT COUNTY	
CT	LITCHFIELD COUNTY (part) Canaan town Norfolk town Colebrook town North Canaan town Cornwall town Salisbury town Goshen town Sharon town Kent town Torrington town Litchfield town Warren town Morris town	MIDDLESEX COUNTY (part) Chester town Deep River town Essex town Westbrook town		
DE	SUSSEX COUNTY	BRADFORD COUNTY	CALHOUN COUNTY	CITRUS COUNTY
FL	BAKER COUNTY	COLUMBIA COUNTY	DESOTO COUNTY	DIXIE COUNTY
	FRANKLIN COUNTY	GILCHRIST COUNTY	GLADES COUNTY	GULF COUNTY
	HAMILTON COUNTY	HARDEE COUNTY	HENDRY COUNTY	HIGHLANDS COUNTY
	HOLMES COUNTY	INDIAN RIVER COUNTY	JACKSON COUNTY	JEFFERSON COUNTY
	LAFAYETTE COUNTY	LEVY COUNTY	LIBERTY COUNTY	MADISON COUNTY
	MONROE COUNTY	OKEECHOBEE COUNTY	PUTNAM COUNTY	SUMTER COUNTY
	SUWANNEE COUNTY	TAYLOR COUNTY	UNION COUNTY	WAKULLA COUNTY
	WALTON COUNTY	WASHINGTON COUNTY		

IRS Section 42(d)(5)(C) QUALIFIED CENSUS TRACTS

STATE: PUERTO RICO

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR ADJUNTAS	E 0001	309	E 0002	383	E 0003	100	E 0008	675	E 0010	140	E 0012	347
	E 0013	124	E 0020	163	E 0021	38	E 0022	469	E 0023	194	E 0024	329
	E 0025	365	E 0030	365	E 0036	399	E 0037	131	E 0041	288		
PR AIBONITO	E 0051	688	E 0053	30	E 0058	261	E 0060	585	E 0092	296		
PR ARROYO	E 1200	789	E 1205	190	E 1206	350	E 1207	974	E 1210	246	E 1212	248
	E 1216	570	E 1217	285	E 1227	99	E 1228	338	E 1229	262	E 1239	532
	E 1240	166										
PR BARRANQUITAS	E 0601	1185	E 0606	553	E 0612	620	E 0613	1142	E 0616	322	E 0622	466
	E 0624	453	E 0628	652	E 0630	776	E 0631	331	E 0632	1100	E 0633	208
	E 0634	538										
PR CEIBA	E 0212	198										
PR CIALES	E 0004	569	E 0020	291	E 0021	658	E 0023	584	E 0029	427		
PR COAMO	E 0625	524	E 0628	459	E 0629	741	E 0635	150	E 0637	932	E 0641	740
PR COMERIO	E 0050	333	E 0055	504	E 0057	113	E 0059	492	E 0062	589	E 0063	1226
	E 0064	731	E 0065	412	E 0068	463	F 0070	496	E 0072	642	E 0073	111
	E 0075	321	E 0078	343	E 0080	522						
PR GUANICA	E 0200	640	E 0201	100	E 0203	646	E 0209	494	E 0210	188	E 0215	127
	E 0222	208	E 0228	656	E 0230	303	E 0232	288				
PR GUAYAMA	E 0126	120	E 0128	371	E 0141	820	E 0143	491	E 0150	197	E 0155	414
	E 0156	355	E 0158	682								
PR GUAYANILLA	E 0350	287	E 0354	403	E 0356	239	E 0357	799	E 0359	634	E 0362	515
	E 0363	519	E 0377	254	E 0378	505	E 0384	833	E 0388	214	E 0389	232
PR JAYUYA	E 0151	583	E 0152	496	E 0153	488	E 0154	276	E 0156	174	E 0163	308
	E 0168	782	E 0171	433								
PR LAJAS	E 0002	432	E 0008	187	E 0010	309	E 0029	626	E 0033	692		
PR LARES	E 0050	659	E 0055	238	E 0056	694	E 0058	850	E 0060	672	E 0065	252
	E 0067	154	E 0068	650	E 0080	849	E 0083	759	E 0084	275	E 0089	677
	E 0090	488	E 0091	530	E 0092	405	E 0093	524				
PR LAS MARIAS	E 0825	217	E 0826	137	E 0833	110	E 0835	496	E 0836	522	E 0844	161
	E 0848	212										
PR MARICAO	E 0051	624	E 0052	339	E 0053	463	E 0062	89				
PR MAUNABO	E 0005	731	E 0009	295	E 0010	593	E 0013	200	E 0014	202	E 0015	246
	E 0017	212	E 0022	546	E 0023	580	E 0025	499	E 0027	318	E 0028	269
PR MOROVIS	E 0126	857	E 0132	115	E 0133	552	E 0145	984	E 0147	347	E 0156	606
	E 0158	565	E 0160	704								
PR NAGUABO	E 0113	148	E 0117	426	E 0120	93	E 0122	495	E 0132	685	E 0138	265
	E 0142	178										
PR OROCOVIS	E 0375	584	E 0380	583	E 0387	815	E 0392	528	E 0393	168	E 0394	306
	E 0397	633	E 0398	569	E 0403	558	E 0404	485	E 0405	522	E 0406	347
	E 0407	461	E 0408	390								
PR PATILLAS	E 0451	250	E 0453	590	E 0455	141	E 0456	323	E 0457	331	E 0458	659
	E 0459	449	E 0460	323	E 0461	616	E 0468	327	E 0472	307	E 0475	715
	E 0477	1151	E 0480	532	E 0489	211						
PR RINCON	E 0514	373	E 0522	502								
PR SABANA GRANDE	E 0288	348	E 0290	145	E 0312	498						
PR SALINAS	E 0902	493	E 0904	244	E 0906	307	E 0911	216	E 0916	333	E 0920	150

IRS Section 42(d)(5)(C) QUALIFIED CENSUS TRACTS

STATE: PUERTO RICO

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR SALINAS	E 0921	506	E 0922	313	E 0927	891	E 0928	104	E 0942	306	E 0943	259
	E 0945	475										
PR SAN SEBASTIAN	E 0101	287	E 0107	860	E 0133	518	E 0145	604	E 0160	398	E 0161	331
	E 0162	79	E 0164	63	E 0167	583	E 0169	207	E 0172	215	E 0177	827
	E 0179	438	E 0181	520	E 0182	784						
PR SANTA ISABEL	E 0550	216	E 0551	880	E 0555	38	E 0558	395	E 0559	524	E 0560	430
	E 0561	582	E 0562	313	E 0564	136	E 0565	66	E 0585	757	E 0589	231
	E 0591	1241										
PR UTUADO	E 0251	400	E 0254	202	E 0256	262	E 0257	485	E 0261	417	E 0265	468
	E 0269	231	E 0270	712	E 0272	601	E 0273	134	E 0274	285	E 0276	56
	E 0277	407	E 0284	856	E 0285	268	E 0287	200	E 0288	556	E 0296	467
	E 0298	406	E 0299	281	E 0300	573						
PR VIEQUES	E 0353	74	E 0360	335	E 0361	188	E 0366	215	E 0372	72	E 0373	111
PR VILLALBA	T 7201.	2529										
PR YABUCOA	E 0651	419	E 0655	426	E 0659	741	E 0670	250	E 0677	189	E 0678	849
	E 0681	455	E 0682	807	E 0692	507						
PR YAUCO	E 0425	316	E 0426	469	E 0428	303	E 0431	361	E 0433	164	E 0438	719
	E 0439	544	E 0441	713	E 0442	630	E 0443	80	E 0444	448	E 0447	463
	E 0455	582	E 0456	604	E 0457	1010	E 0458	487	E 0459	1113	E 0461	108
	E 0463	173	E 0465	465	E 0467	304						

135000 TOTAL POPULATION OF QUALIFIED CENSUS TRACTS / PERCENT 20.0

METROPOLITAN AREA: Aguadilla, PR

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR AGUADA	E 0400	630	E 0401	405	E 0402	986	E 0403	180	E 0405	939	E 0407	735
	E 0408	1413	E 0409	213	E 0410	724	E 0412	703	E 0413	455		
PR ISABELA	E 0300	678	E 0301	257	E 0306	340	E 0309	1432	E 0311	375	E 0313	108
	E 0316	491	E 0320	754	E 0321	537	E 0322	669	E 0329	331	E 0330	558
	E 0345	357	E 0347	245	E 0356	277	E 0357	782	E 0359	284	E 0360	237
	E 0361	640	E 0365	421	E 0367	617	E 0370	226				
PR MOCA	E 0204	768	E 0205	665	E 0206	886	E 0207	378	E 0208	435	E 0216	853
	E 0220	562	E 0221	704	E 0222	599	E 0223	1348	E 0225	879	T 9999.99	4400

30472 TOTAL POPULATION OF QUALIFIED CENSUS TRACTS / PERCENT 19.9

METROPOLITAN AREA: Arecibo, PR

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR ARECIBO	T 3002.	2538	T 3004.	2350	T 3013.	3741	T 3016.	3924	T 3018.	1497	T 3019	4142
	T 3024.	1109										
PR CAMUY	E 0684	840	E 0695	516	E 0697	261	E .0698	388	E 0699	658	E 0700	233
	E 0701	576	E 0702	259	E 0703	310	E 0706	311				
PR QUEBRADILLAS	E 0452	446	E 0454	631	E 0455	138	E 0456	370	E 0460	409	E 0463	256
	E 0465	381	E 0470	327	E 0471	570	E 0477	721	E 0480	548	E 0484	884

IRS Section 42(d)(5)(C) QUALIFIED CENSUS TRACTS

METROPOLITAN AREA: Arecibo, PR

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR QUEBRADILLAS	E 0485	859	E 0486	504	E 0488	483	E 0489	320	E 0491	318	E 0492	158

31974 TOTAL POPULATION OF QUALIFIED CENSUS TRACTS / PERCENT 19.9

METROPOLITAN AREA: Caguas, PR

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR AGUAS BUENAS	E 0001	769	E 0002	483	E 0004	718	E 0005	302	E 0007	293	E 0008	493
	E 0009	142	E 0010	620	T 9903.	2514						
PR CAGUAS	T 2009.	2111										
PR CAYEY	E 0327	535	E 0328	404	E 0330	583	E 0331	560	E 0332	865	E 0335	59
	E 0336	1136	E 0339	382	E 0342	948	E 0345	87	E 0346	69	E 0347	896
	E 0348	302	E 0349	274	E 0350	497	E 0351	261	E 0352	526	E 0353	152
	E 0354	228	E 0355	577	E 0356	439	E 0357	106	E 0358	160		
PR CIDRA	E 0753	258	E 0754	360	E 0755	749	E 0756	589	E 0758	624	E 0761	287
	E 0762	144	E 0763	1809	E 0764	131	E 0766	187	E 0767	1350	E 0768	584
	E 0772	345	E 0773	1213	E 0778	1167	E 0779	576	E 0780	364	E 0783	1423
	E 0784	534	E 0785	1370								
PR GURABO	T 2101.	3412										
PR SAN LORENZO	T 2201.	4586	T 2202.	3824	T 2206.	3215	T 2207.	4855	T 9999.99	719		

53166 TOTAL POPULATION OF QUALIFIED CENSUS TRACTS / PERCENT 20.0

METROPOLITAN AREA: Mayaguez, PR

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR ANASCO	T 8101.	2970	T 8107.	3760								
PR CABO ROJO	E 0701	1108	E 0709	201	E 0713	826	E 0714	782	E 0715	782	E 0716	533
	E 0726	268	E 0727	304	E 0730	310	E 0733	35	E 0737	499	E 0739	586
	E 0740	386	E 0741	551	E 0744	343	E 0746	364	E 0747	641	E 0748	631
	E 0750	578	E 0753	474	E 0754	295	E 0758	494	E 0762	500	E 0763	643
	E 0764	548	T 9999.99	728								
PR MAYAGUEZ	T 0812.01	3563	T 0812.02	1784	T 0812.03	3505						
PR SAN GERMAN	E 0925	66	E 0926	488	E 0927	784	E 0928	813	E 0930	327	E 0932	665
	E 0933	396	E 0934	504	E 0936	248	E 0937	501	E 0938	407	E 0939	291
	E 0944	696	E 0946	595	E 0951	729	E 0955	315	E 0961	483	E 0962	275
	E 0963	294	T 9901.	1541	T 9999.99	638						

40048 TOTAL POPULATION OF QUALIFIED CENSUS TRACTS / PERCENT 20.0

METROPOLITAN AREA: Ponce, PR

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR PONCE	T 0702.	11922	T 0703.	3868	T 0704.	4228	T 0707.	1973	T 0709.	5100	T 0713.	5932
	T 0716.02	7351	T 0726.	4081	T 0728.	1552						

46007 TOTAL POPULATION OF QUALIFIED CENSUS TRACTS / PERCENT 19.8

IRS Section 42(d)(5)(C) QUALIFIED CENSUS TRACTS

METROPOLITAN AREA: San Juan, PR

STATE AND COUNTY	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.	TRACT/ED	POP.
PR BARCELONETA	T 9905.	2889										
PR BAYAMON	T 0304.	913	T 0307.	2469	T 0318.	1872	T 0321.	2244				
PR CANOVANAS	T 1001.	7531	T 1003.	953	T 1007.	4627	T 1008.	1321				
PR CAROLINA	T 0510.	5933										
PR CATANO	T 0201.	1542	T 0204.04	4519								
PR COROZAL	E 0176	592	E 0178	658	E 0179	754	E 0180	632	E 0181	788	E 0183	187
	E 0184	236	E 0186	822	E 0187	685	E 0188	79	E 0189	469	E 0192	827
	E 0197	487	E 0198	706	E 0199	456	E 0201	385	E 0202	325	E 0203	518
	E 0204	658	E 0205	938	E 0206	707	E 0207	485	E 0208	562	E 0209	709
	E 0210	468	E 0211	330	E 0212	525	E 0213	968	E 0214	605	E 0215	639
	E 0216	143	E 0217	1257	E 0219	673	E 0220	629	E 0221	266		
PR FAJARDO	E 0006	359	E 0007	338	E 0012	431	E 0013	263	E 0014	318	E 0015	255
	E 0016	397	E 0018	157	E 0019	478	E 0020	269	E 0044	304	T 9907.	5532
PR FLORIDA	E 1350	878	E 1353	1121	E 1354	107	E 1356	259	E 1357	182	E 1361	547
	E 1362	407										
PR GUAYNABO	T 0401.01	3596	T 0401.02	3504	T 0401.03	2837	T 0404.22	587	T 0408.	3410		
PR HUMACAO	E 1000	983	E 1005	303	E 1007	879	E 1008	373	E 1009	427	E 1010	925
	E 1011	647	E 1013	755	E 1015	704	E 1017	805	E 1018	726	E 1020	1045
	E 1021	413	E 1022	633	E 1023	396	E 1025	600	E 1027	576	E 1028	296
	E 1031	721	E 1033	1140	E 1034	696	E 1035	462	E 1037	396	E 1039	403
PR JUNCOS	E 0250	628	E 0252	354	E 0254	313	E 0255	173	E 0301	253	T 9901.	2199
	T 9902.	1708	T 9904.	1974	T 9999.99	3439						
PR LAS PIEDRAS	E 0525	330	E 0527	281	E 0528	324	E 0530	914	E 0531	313	E 0533	486
	E 0535	453	E 0536	773	E 0541	630	E 0543	409	E 0544	508	E 0551	818
	E 0552	419	E 0555	643	E 0560	81	E 0564	810				
PR LOIZA	T 1101.	4836	T 1104.	2264	T 1106.	1532						
PR LUQUILLO	E 0250	386	E 0251	319	E 0253	572	E 0255	741	E 0256	464	E 0258	384
	E 0259	249	E 0260	392	E 0263	89	E 0265	348	E 0273	207	E 0275	935
	E 0276	1093	E 0278	225	E 0281	506						
PR MANATI	E 1030	154	E 1034	566	E 1035	1174	E 1036	953				
PR NARANJITO	E 0100	151	E 0107	504	E 0110	544	E 0111	604	E 0112	677	E 0114	1252
	E 0116	365	E 0117	362	E 0118	207	E 0120	503	E 0123	241	E 0124	449
	E 0125	480	E 0126	874	E 0127	357	E 0128	844	E 0129	382	E 0130	305
	E 0131	781	E 0132	602	E 0133	358	E 0134	208	E 0136	535	E 0137	672
	E 0138	341	E 0140	785	E 0141	526	E 0142	1042	E 0143	174	E 0145	233
PR RIO GRANDE -	T 9907.	9113	T 9908.	3691	T 9999.99	655						
PR SAN JUAN	T 0002.	1084	T 0006.	3708	T 0007.	1708	T 0013.	9748	T 0028.	2559	T 0029.	2733
	T 0034.	3041	T 0035.	10507	T 0036.	1800	T 0037.	5585	T 0040.	1382	T 0043.	6180
	T 0044.	5297	T 0045.	2429	T 0046.	5349	T 0047.	7335	T 0048.	4493	T 0054.02	2979
	T 0060.	2657	T 0082.01	2999	T 0090.	2660	T 0093.	2646				
PR TOA ALTA	T 9901.	7682	T 9903.	5266								
PR TOA BAJA	T 1211.	5279	T 1220.	3583	T 1222.	5477	T 1223.	453				
PR TRUJILLO ALTO	T 0605.	4366										
PR VEGA ALTA	T 9901.	6011	T 9902.	5340								
PR VEGA BAJA	E 1125	233	E 1127	788	E 1132	212	E 1134	876	T 9906.	2197		

301874 TOTAL POPULATION OF QUALIFIED CENSUS TRACTS / PERCENT 20.0

HOUSING COMMITMENT FOR A CERTIFICATE OF RESERVATION FOR A LOW INCOME HOUSING TAX CREDIT ALLOCATION

The Puerto Rico Housing Finance Corporation ("PRHFC" or "Allocating Agency") hereby commits to reserving Low-Income Housing Tax Credits pursuant to Section 42 (h)(1)(C) of the Internal Revenue Code of 1986, as amended ("Code"), by the issuance of this Binding Commitment as follows:

1. **Allocation Year:** ______

2. **Amount of Tax Credits to Be Reserved to the Project:** $___________

3. **Name and Address of the Project:**

 ____

 ____

 ____

4. **Name, Address and Taxpayer Identification Number of Project Owner:**

 ____

 ____

 ____

5. **Taxpayer I.D. No.:** ____________________

6. **Name and Address of Allocating Agency:**

 ____

 ____

 ____

7. **Date of this Binding Commitment:** ______________________________

8. **Building Identification Numbers:** To Be Assigned

9. **Project falls within one of the following categories (mark one):**

 _____a. Credit is deemed necessary to facilitate the restructuring of financing provided to a project confronting economic difficulties.

_____b. Credit is deemed necessary to preserve the low-income housing status of the project or to maintain the total number of available low-income housing units within Puerto Rico.

_____c. Credit is requested in connection with the acquisition of a project from the government of Puerto Rico, or any department, agency, entity or political subdivision thereof.

PRHFC represents and warrants that this Binding Commitment is binding on PRHFC and its successors and assigns and that PRHFC is the housing credit agency for the Commonwealth of Puerto Rico. It is intended that this Binding Commitment shall serve as a commitment to reserve Tax Credits to the Project Owner under Section 42(h)(1)(C) of the Code with respect to the Project and that the State Housing Credit Ceiling (as defined in Section 42 (h)(1)(F) of the Code) shall be reduced in 199____ to reflect this commitment. Pursuant to Section 42(h)(1)(F) of the Code, the portion of the allocation which is to be allocated to each of the buildings in the Project shall be specified no later than the close of the calendar year in which each such building is placed in service and shall be reflected in IRS Forms 8609 for each such building. The Project Owner represents and warrants that no portion of the Project has been placed in service by the Project Owner in a calendar year in which this Binding Commitment is made.

By: Puerto Rico Housing Finance Corporation
6th Floor
159 Chardón Avenue
Hato Rey, Puerto Rico 00918

Signature: ______________________________

Typed or Printed: ______________________________

Title: ______________________________

Agency Taxpayer ID Number: ______________________________

Commitment Date: ______________________________

COMMONWEALTH OF PUERTO RICO

AFFIDAVIT NO.: _______

Subscribed before me by ____________________________, of legal age, ________________, and resident of __________________________, Puerto Rico, who I personally know, in his/her capacity as __________________________ of ______________________________ as _______________ of Puerto Rico Housing Finance Corporation and being duly sworn, acknowledged the execution of the foregoing Binding Commitment. In San Juan, Puerto Rico, this ______ day of _____________________, 199_____.

____
NOTARY PUBLIC

Acknowledged, Agreed and Accepted:

Owner: ______________________________

By: ______________________________

Title: ______________________________

COMMONWEALTH OF PUERTO RICO

AFFIDAVIT NO.: ________

Subscribed before me by ______________________________, of legal age, ________________, and resident of ________________________, Puerto Rico, who I personally know, in his/her capacity as ______________________________of ______________________________ as General Partner of ______________________ and being duly sworn, acknowledged the execution of the foregoing Binding Commitment. In San Juan, Puerto Rico, this ______ day of ________________, 199_____.

____

NOTARY PUBLIC

PUERTO RICO HOUSING FINANCE CORPORATION
LOW INCOME HOUSING TAX CREDIT PROGRAM
Program Guidelines

Program Description

The Puerto Rico Housing Finance Corporation (PRHFC) is charged with the responsibility for administering the Low Income Housing Tax Credit Program for Puerto Rico. Section 42 of the Internal Revenue Service Code contains the regulations governing the Low Income Housing Tax Credit Program which was created to encourage the construction and rehabilitation of housing for low and moderate-income individuals and families. The Federal Low-Income Housing Tax Credit is a reduction in federal tax liability each year for ten years for owners and investors in low income rental housing that is based on the eligible costs of development and the number of qualified low income units. Eligible development costs are expenditures which can be included in the depreciable basis.

The owner must elect to rent a minimum of 20% of the units to families with an income less than 50% of the area median income, or a minimum of 40% of the units to families with an income less than 60% of the area median income. The maximum gross rents are determined by the unit bedroom size and the area median income for specified household sizes. Utilities paid by the tenant area considered part of the gross rent. Please refer to the attached Income and Rent Chart (annex 1). The units must remain rent restricted for a minimum of thirty years.

The tax credit rate is approximately 4 percent for building acquisition costs, 9 percent for rehabilitation and new construction costs, but only 4 percent if a development has federal subsidies or tax-exempt financing. The actual tax credit rate is determined each month based on prevailing Treasury interest rates. The owner may elect to accept the tax credit rate effective in the month the owner and the PRHFC enter into a Binding Allocation Agreement. If there is no Binding Allocation Agreement between the owner and PRHFC, the development will be subject to the tax credit rate effective in the month the development is completed and ready for occupancy (placed in service.)

The maximum annual tax credit a development could be eligible for is determined by multiplying the eligible development costs (eligible basis) by the percentage of qualified units or floor space (applicable fraction) and the product (qualified basis) by the applicable tax credit rate(s).

Developments in certain HUD designated Qualified Census Tracts and Difficult Development Areas may be eligible for a higher amount of tax credit as an inducement to

develop affordable housing in areas with the greatest need. Please reefer to the attached Qualified Census Tracts and Difficult Development Area Chart (annex 2)0.
Acquisition expenditures are generally only eligible for tax credit if the development also qualifies for tax credit for rehabilitation, the ownership prior to the acquisition was continuous for at least ten years, no substantial rehabilitation has occurred within the past ten years, and the seller and buyer are not related. There are exceptions for certain developments. (Note: PRHFC requires a CPA and Attorney opinion regarding a development's eligibility for tax credit for acquisition.)

Developments receiving HOME funds can receive an allocation of the 9% tax credit if 40% or more of the residential rental units in the development are occupied by families with incomes of 50% or less of the area median income. These developments are not, however, eligible for the 130% of basis credit available to developments in high cost and difficult to develop areas.

Developments that receive an allocation of tax credit will be subject to a 30-year Land Use Restriction Agreement, which will limit the use to affordable housing. This Agreement can only be released by foreclosure or the inability of the credit agency to find a qualified buyer who will continue the low-income use, prompted by a written request to PRHFC from the owner sometime after the beginning of the final year of the voluntary or involuntary compliance period. If the credit agency is unable to find a qualified buyer, the 30-year restriction is released, but the tenants will be protected from eviction for other than just cause or rent increases for an additional three years. Please refer to the attached copy of the Land Use Restriction Agreement.

States are limited in the amount of annual tax credit authority to $1.25 per capita, any carry forward of unused credit authority from the previous year, any returned credit in the current year, and any credit awarded to the state from the national pool.

The tax credit allocated to a development will be limited to the amount PRFHC, in its sole discretion, deems necessary for development feasibility and long-term viability. In some cases, this amount will be less than the maximum amount to which the development is entitled. This determination is only for purposes of PRHFC evaluation and does not warrant to any other party that the development will, in fact, be feasible or viable.

For the exact details of the program, refer to IRS Section 42 of the 1986 Tax Act, as amended, and the other related IRS program documents. For a copy of IRS Section 42 and other related IRS program documents, please contact the Housing Development and Finance Area at (787) 765-7577 ext. 253.

We strongly advise anyone considering the tax credit to seek guidance from a tax attorney, accountant, a consultant or whatever entity can best give the developer comfort in dealing with federal tax issues. PRHFC will, upon request, provide the latest IRS rulings and tax changes and will make taxpayers aware of our internal processing requirements, but cannot be relied on for authoritative interpretations of the tax code. Employees and officers of PRHFC are not liable for any adverse consequences that affect the taxpayer or investors as it relates to compliance with the federal tax code.

Application and Credit Allocation Procedures

Submission

Developments may be selected for an allocation of tax credit by the sponsor submitting and application to PRHFC for considerations under the terms and timetable prescribed in the Allocation Plan. Applicants may apply for an eligibility competition to receive a credit allocation during the calendar year. The closing date for accepting applications and dates is detailed in the attached Allocation Plan. Incomplete applications will not be considered until all corrections have been made and all required exhibits are submitted.

Notice of the application will be sent to the chief executive officer of the local government jurisdiction, within which the development is located requesting comments on the development.

Eligibility

Applications will only be considered if they conform with provisions of IRS Section 42, as amended, and PRHFC application instructions, are complete, with all required fees and exhibits, and contain enough financial information to assess the probability of feasibility over the initial 15-year compliance period.

Applications that satisfy the basic threshold qualifications will be further reviewed for other criteria contained in the state approved Allocation Plan. The allocation process including a description of the threshold requirements, federal preferences and selection criteria is detailed in the attached Allocation Plan, which was developed by considering public comments and the priority housing needs of Puerto Rico.

Developments not approved may be reconsidered later in the year if additional tax credit becomes available.

Processing Fees

Developments approved for Reservations or a Binding Allocation Agreement must satisfy all PRHFC processing requirements by December 1 in the year the tax credit was reserved to receive either IRS Form 8609 for completed developments or a Carryover Allocation for Developments that will be completed within the next two years.

Because of the time required to review documentation and prepare necessary documents, PRHFC cannot guarantee an allocation to developments approved before December if the sponsor does not submit the required items for an allocation by December 1.

ALLOCATION STAGES OF PROCESSING

Tentative Reservation

All developments approved for a reservation of tax credit will start at this stage. After approval, the owner/sponsor will have a stated period of time to progress to another stage of processing, and ultimately to an allocation. This reservation period is generally sixty days.

Firm Reservation

To be eligible for this stage of processing, the sponsor must show that they have obtained a permanent financing commitment. The reservation term will vary depending on Section 42 deadlines imposed on PRHFC, but generally will be for a sixty day period.

Binding Allocation Agreement

This stage of processing is only available for developments that are under the proper ownership, and where the sponsor has obtained a permanent financing commitment. This is the stage that PRHFC is willing to bind itself to make an allocation in the future if the sponsor can satisfy the requirements. This is the stage where the owner can make the election to lock in the current applicable tax credit rate.

Carryover Allocation

PRHFC will make Carryover Allocations only to developments under the proper ownership that have a permanent financing commitment, where the owner can certify that they have incurred more than 10% of the expected cost of the development before December 31 of the year the tax credit was reserved. PRHFC will require a verifying certification regarding the 10% test by an independent Attorney or Certified Public Accountant for all developments by December 1 of the year the tax credit was reserved.

Developments that are unable to satisfy these primary requirements will not be issued a Carryover Allocation, and tax credit reserved for the development will be recaptured. Developments that receive carryover allocations will be periodically monitored for progress, PRHFC requires progress reports by May 1 of each year following the year the tax credit was reserved. The Carryover Allocation Document states PRHFC reserves the right to recapture the allocated tax credit where it appears that a development is not progressing to construction completion and will not be placed in service by the required date.

Final Allocation (IRS Form 8609)

This is the final stage of processing that is only available to developments with buildings completed and available for occupancy (placed in service). A development will be issued IRS Form 8609 for each qualified building when the development is placed in service and all source and use certifications and supporting documentation has been submitted. Developments also will be required to have an independent CPA complete the Certification by Certified Public Accountant section of the Project Cost Certification before the allocation will be finalized. Developments that qualify for a Carryover Allocation and meet the conditions that allow it to be effective for the following two years must receive IRS Form 8609 for each qualified building in the year the building(s) in the development is placed in service. Owners must submit as built plans, the Certificate of Occupancy, a letter certifying any federal, sate or local assistance received or to be received for the project's development or operation and a complete application form duly signed and notarized, along with the CPA's Cost Certification to apply for the Form 8609.

PRHFC Determination of Credit Amount

Section 42(m) of the Internal Revenue Code lists the "Responsibilities of Housing Credit Agencies." Within this section, housing credit agencies are mandated to financially review developments by considering the financing (sources) and development cost (uses) and the expected present value of the tax credit benefits expected to be generated, to insure that no more than the tax credit necessary for development feasibility and viability is allocated.

The financial review and evaluation by PRHFC will be for its own purpose in implementing the above-mentioned provision of Section 42 of the Internal Revenue Code and shall not be construed as a warranty or guarantee to any person that the development will be feasible and viable over the credit period.

The tax credit allocated by PRHFC will be at its sole discretion, with the primary considerations being development affordability and feasibility. In its review, PRHFC will assess the comparability and reasonableness of the development cost budget and the proposed development operating proforma. Proposed debt service will be reviewed to determine if its is supportable.

The main emphasis of the evaluation by PRHFC is to underwrite a development that will be affordable and profitable, but does not over compensate owners or investors beyond financial returns accepted by the majority of the market.

Sponsors should be advised that any financial changes in the development application during processing could change the tax credit assigned to the development. Upward adjustments generally will only be made if there is a clear benefit to the tenants(s). The rents initially approved during processing may only be increased by approval of PRHFC.

Please be aware that the PRHFC reserves the right to change materials or processing requirements to comply with the Low-Income Housing Tax Credit guidelines or for our own purposes.

Also, please be advised that all judgments of the Corporation relating to a development submitted for tax credit will be final. Prior to the issuance of a Low-Income Housing Tax Credit Reservation or Binding Allocation Agreement, no conversation(s) with any, employee, agent or attorney of PRHFC concerning the issuance or the provisions of same may be relied upon by you or any successor in interest of yours, nor shall any such conversation(s) or information submitted to PRHFC be binding upon PRHFC, except as may be contained in such written commitment.

Upon filing an application, you acknowledge that you assume all risks of change in Section 42, and in PRHFC rules or policies concerning this program, together with any adverse effects upon you therefrom and any resulting costs thereof.

Compliance Monitoring

Tax Credit developments may be audited each year for compliance with the tax credit rules and regulations including but not limited to:

- recertification of tenant income
- review of rent and utility allowances
- Section 8 Housing Quality Standards
  - annually for developments of more than twenty-five (25) units
  - biannually for developments with one to twenty-four (24) units

Please refer to the attached Compliance Monitoring Manual. For questions regarding compliance monitoring, please contact the Auditing Department at (787) 765-7577 ext. 238.

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PUERTO RICO HOUSING FINANCE CORPORATION

COMPLIANCE MONITORING PLAN

Annex F to the Low-Income Housing Tax Credit Allocation Plan

Rev. March 1998

I. INTRODUCTION

The Puerto Rico Housing Finance Corporation, as State Credit Agency, has administered the Low Income Rental Housing Tax Credit Program ("LIHTC") for the Commonwealth of Puerto Rico since December 30, 1987. As of December 31, 1997 the Agency had allocated dwelling units placed in service and tax credits to 78 projects, with 5,016 occupied by low income families throughout the island. Theoretically, the credit is designed to provide the additional return that is necessary to compensate low income building owners for the reduced rental income.

The Internal Revenue Code (IRC) in its Section 42, and the applicable Treasury Department regulations govern the administration of the program. The federal law requires that the state allocating agencies monitor the Tax Credit projects for noncompliance with the provisions of Section 42 of the IRC. Furthermore, the state credit agency is required to notify the Internal Revenue Code (IRS) of any noncompliance with the program.

As the State Credit Agency (The Agency), Puerto Rico Housing Finance Corporation, is responsible to monitor the LIHTC projects. This guide is intended to describe the rules and responsibilities of each one of the parties in the compliance process and provide a practical reference to owners and managers of projects participating in the LIHTC Program.

This plan was prepared and has been reviewed in compliance with the final regulations published on September 2, 1992 by the Internal Revenue Service in 26 CFR Parts 1 and 602, "Procedure for Monitoring Compliance with Low Income Housing Credit Requirements", further program regulations and IRS notices.

II. FEDERAL LAWS AND REGULATIONS GOVERNING THE LIHTC PROGRAM

The low income housing tax credit was introduced with the Tax Reform Act of 1986. Congress intended to create a low income subsidy that would provide incentives to increase the low income housing occupancy level but would impose limitations on the amount of rent owners could charge to tenants.

During 1988 Congress passed the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), which affected the tax credit provisions under the 1986 statue. The major change was the liberalization of the rules regarding the project's placed-in-service date. Under TAMRA a building could be placed in service for up two years following the year during which the credit was allocated to the project, if certain tests were satisfied.

Afterwards, Congress passed the Omnibus Budget Reconciliation Act of 1989 and the Omnibus Budget Reconciliation Act of 1990, each of them extending the credit through December 31, 1990 and December 31, 1991, respectively.

On December 11, 1991 President Bush signed the Tax Extension Act of 1991, extending the program through June 30, 1992; however, the Corporation received authorization to use the 1991 remaining tax credit balance through December 31, 1992.

On October 10, 1993, President Clinton signed the Omnibus Reconciliation Act of 1993 (OBRA 93). OBRA 93 permanently extended the credit effective July 1, 1993. The act clarified some of the technical language of previous legislation, including some minor changes to the Program.

III. STEPS IN THE COMPLIANCE PROCESS

A. *Low Income Housing Program Reports*

After the projects are placed in service, the person or company in charge of the management of a low income housing tax credit project must complete and submit to the Agency a Quarterly Status Report for each building in each project. (Copy of the report forms are included as Appendix 1). The Quarterly Status Report must be accompanied by Income Certifications of each new move-in and Recertifications of income for each existing tenant. These reports must be submitted to the Agency by the 15th day after the end of each quarter during the compliance period.

In addition, a Unit Status Report will be prepared on a quarterly basis for each unit in the project after it is placed in service. The report will be transmitted to the Agency by the 15th day after the end of each quarter. (Copy of the Unit Status Report and instructions are included as Appendix 2.)

B. *Annual Certifications*

The Owner and the Management Agent must certify by December 31st of each year during the compliance period that the project meets the requirements of Section 42. Each certification must be duly notarized and submitted to the Agency with 30 days after close of the year. (A model of the "Annual Certification of Owner and Management Agent" is included as Appendix 3).

C. *Annual Review*

The Agency will schedule on site project inspections throughout the compliance period. During the review the tenant files, as well as the records described in the recordkeeping portion of this plan, will be examined for project compliance. The Agency will report on its findings and the owner and/or the management company must respond in writing within thirty (30) days to the Agency. The response must indicate the manner in which corrective actions have been taken.

D. *Follow Up Reviews*

The Agency will perform as many follow up reviews as it may deem necessary after its review of the project.

E. *Notification to IRS of Noncompliance*

The Agency will notify the Internal Revenue Service within thirty (30) days of any knowledge of noncompliance with Program requirements, as detailed in Section VIII, below.

IV. <u>RESPONSIBILITIES OF THE PARTIES INVOLVED</u>

A. *Puerto Rico Housing Finance Corporation*

Once a final allocation is awarded to a project, the Agency has the responsibility of monitoring the project to guarantee compliance with Section 42 of the Internal Revenue Code and its regulations. The Agency will comply with this responsibility through:

1. The review of the Quarterly Status Reports, the Unit Status Report, the Annual Certifications of Owner and Management Agent and any other LIHTC compliance reports as may be requested,
2. The examination of income certifications and recertifications,

3. The performance of periodic reviews of tenant files and on-site inspections of the projects,

4. Offering continuing education to the owner or developer, the management company and on-site personnel to guarantee compliance with federal regulations and Agency's rules, and

5. Conducting any necessary follow up reviews.

B. ***Owner or Developer***

It is very important that the owner provide the Agency with all required information, reports and documentation in a timely manner. If the owner determines that the project is not in compliance with the Low Income Housing Tax Credit Program requirements, he must notify the Agency immediately.

In exchange for the benefits of a tax credit allocation, the owner or developer must comply with allocation, the owner or developer must comply with certain requirements. Among those responsibilities are:

1. ***Compliance with Section 42 of the IRS Code***

Owners and developers shall provide information documenting the project's overall economic feasibility. Prior the developer and its accountant must certify the total project costs.

The developer must also certify that all requirements of the Program have been met. Any violation of the requirements of the Program could result in the loss of the tax credits issued to the developer.

2. ***Proper Administration***

The owner or developer is responsible to the Agency to insure that the project is properly administered. The owner must comply with all rules, regulations and policies that govern the project.

It is owner's responsibility to keep the Agency informed throughout all phases of development, rent-up and operation. This includes the initial phases of construction, the scheduled placed-in-service date, the completion of the project, and any major changes that are made at any time.

3. *Record Keeping Provisions*

The owner of a low income housing tax credit project must keep records for each qualified building in the project showing the following information:

a. The total number of units in the building, including the number of bedrooms and the square feet size of each unit,

b. The percentage of low income units in the building,

c. The rent charged on each unit in the building (including any utility allowances),

d. The low income unit vacancies in the building and information showing when and to whom the next available units were rented,

e. The low income certification of each low income tenant and documentation to support that certification, and

f. The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42 (d).

4. *Certification and Review Provisions*

a. Certifications: During the compliance period , the Agency requires the owner to certify by December 31st of each year, under penalty of perjury, that the project meets the requirements of the 20/50 test under Section 42 (g) (1) (A), the 40/60 test under Section 42 (g) (1) (B) or the 15/40 test under Sections 42 (g) (4) and 42 (d) (4) (B) for "deep rent skewed" projects.

The owner also has to certify under penalty of perjury:

1. that the owner has received an annual low income certification from each low income tenant and documentation to support that certification;

2. that each low income unit is rent-restricted under Section 42 (g) (2);

3. that all units in the project are for use by the general public and are used on a nontransient basis;

4. that each building in the project is suitable for occupancy, taking into account local health, safety, and building codes;

5. that there has been no change in any building's eligible basis under Section 42 (d) (or if there has been a change, explain the nature of it);

6. that the tenant facilities included in the eligible basis of any building in the project, such as swimming pools, other recreational facilities, an parking areas, are provided on a comparable basis, without additional charge to the tenants in the building;

7. that if a low income unit in the project becomes vacant during the year, reasonable attempts are made to rent that unit to tenants having a qualifying income;

8. that while the unit is vacant no units of comparable or smaller size are rented to tenants not having a qualifying income; and

9. that if the income of tenants of low income units increases above the limits allowed in Section 42 (g) (2) (D) (ii), all comparable units that are available of smaller size or that subsequently become available in the same building will be rented to tenants having a qualifying income.

10. That the Ownerl complied with all fair housing and equal opportunity requirements and with the provisions of any Federal, State, or local law prohibiting discrimination in housing on the grounds of race, color, religion or creed, sex, national origin, age, familial status or handicap, including Title VIII of the Civil Rights Act of 1968.

b. <u>Yearly Review:</u>

The Agency will conduct a yearly review of the copies of the annual low income certification on each low income tenant, the documentation that the owner has received to support that certification and the rent record for each low-income tenant in at least 20 percent of the low-income units in the project.

c. On-Site Inspections:

The Agency will also inspect, at its discretion, a reasonable number of low income projects each year. The inspection will include at a minimum, an on-site review of the tenant low income certifications for that year, and any other previous year at the discretion of the Agency, the documentation the owner has received to support those certifications and the rent record for each low-income tenant in at least 20 percent of the low-income in the project.

d. Reasonable Notice:

The Agency will notify the owner ten days in advance that an inspection will occur so that the owner may assemble the records.

5. *Record Retention Provisions*

The records for a building should be kept by the owner for a minimum of **6 years beyond** the end of the compliance period of the building.

The Agency will retain records of noncompliance or failure to certify for 6 years beyond its filing the respective Forms 8823 "Low Income Housing Credit Agencies Report of Noncompliance".

In all other cases the Agency will retain the certifications and records for 3 years from the end of the calendar year where they are furnished.

C. *Management Company and On-Site Personnel*

The Management Company and all on-site personnel are responsible to the owner or developer for implementing the Program requirements correctly.

It is their responsibility to be thoroughly familiar with all federal an state laws, rules and regulations governing certification an rental procedures.

They are also responsible for providing all information needed by the Agency and submitting all required reports and documentation in a timely manner. If the Management Company becomes aware of noncompliance with the Program requirements, the owner an the

Agency must be notified immediately. All correspondence on the matter should be sent to each of the foregoing parties.

V. OCCUPANCY REQUIREMENTS

A. *Who May Rent a Low Income Housing Tax Credit Unit*

Low Income Housing Tax Credit Units must be made available to the general public on a nondiscriminatory basis with respect to race, color, religion, age, sex or national origin. The primary consideration for eligibility is the gross annual income of all household members.

The actual limitation of gross maximum family income is determined by the owner's selection of a 50/20, 60/40 or 40/15 set-aside. This selection is part of the Program's application for an allocation of tax credits. The election is irrevocable.

The 50/20, 60/40 or 40/15 set-aside refers to the maximum household income and the minimum number of units that must be set-aside or occupied by qualified tenants. An owner who elected the 50/20 set-aside must rent a minimum of 20% of the units contained in the project to households whose maximum income does not exceed 60% of the area median income, as defined by HUD. An owner who elected the 60/40 set-aside must rent a minimum of 40% of the units in the project to households whose maximum income does not exceed 60% of the area median income.

Only the HUD published data can be used to determine the area median income.

B. *Establishing LIHTC Rents*

The LIHTC Program allows the developer to charge rents based on the median income of the metropolitan area in which the project resides, adjusted to family size. HUD reexamines its statistical data base and publishes new statistics generally in the early part of each year. Rents, including utilities, may not exceed 30% of qualifying income.

To calculate the maximum allowable rents we must know:

1. The area median income,
2. The qualifying test selected by the developer,
3. The size of the family occupying the unit,
4. The adjustments to area median income for household size.

The law sets the household size bases on 1.5 persons per bedroom. The following steps must be followed to calculate the maximum allowable rents:

1. Find the HUD data for the year and area applicable to the project,
2. For each unit, determine the appropriate household size (1.5 persons per bedroom),
3. Determine which qualifying test was selected by the developer,
4. Calculate the qualifying income,
5. Calculate the maximum monthly rent,
6. Calculate the net rent, subtracting the appropriate utility allowance.

C. *Annual Income Definition and Determination*

It is the owner's responsibility to determine the income that the tenant will receive in the immediate twelve months period following occupancy and for each twelve months period following certification. The owner should convert all verified income to Annual Income amounts.

Annual Income is the anticipated total income from all sources received by all family members, including all net income derived from assets for the twelve month period following the effective date of certification. Annual Income does not include income from employment of children under the age of 18 years.

D. *Verification Requirements and Procedures*

The owner shall verify all income, household characteristics, and any circumstances that may affect eligibility and compliance with the LIHTC requirements. The detailed procedures are included in Appendix 4, "Verification Requirement and Procedures".

E. *Establishing LIHTC Rents in Subsequent Years*

Each year, the owner must recompute the maximum allowable rent and the utility allowances for each project using the latest publication by HUD.

If a LIHTC restricted unit is rented to an unqualified tenant or the owner charges rents in excess of the maximum allowable rent, the unit could be subject to recapture. The project should never fall below the minimum set-aside.

F. *Annual Recertification*

The annual recertification shall be complied with as detailed in Appendix 5, "Annual Recertifications".

VI. AUDITING

The Agency reserves the rights to perform an audit on any building that has been allocated tax credits at any time during the compliance period of the building. An audit and a review of the records are described in the recordkeeping provisions of this Plan.

VII. NOTIFICATION TO OWNER

The Agency does not receive in writing the required certification and quarterly reports, or if the Agency discovers on audit, inspection or review, or in some other manner, that the project is not in compliance with the provisions of Section 42 of the IRS Code, the Agency will notify the owner of the low income project in writing as soon possible.

The owner will have sixty (60) days from the date of the notice to supply the missing certification, or to correct the noncompliance. However, if the Agency determines that there is good cause to extend the correction period, it may extend the initial sixty-day period to one hundred twenty (120) days.

VIII. NOTIFICATION TO IRS OF NONCOMPLIANCE

At the expiration of the term for correction, the Agency will have thirty (30) days to notify the IRS whether the noncompliance or failure to certify has been corrected.

The Agency should notify the IRS by filing Form 8823, "Low Income Housing Credit Agencies Report of Non Compliance".

The Agency will explain on Form 8823 the nature of the noncompliance or failure to certify and will indicate whether the owner has corrected the findings or not.

If a building falls entirely out of compliance with Section 42, so that no credit is allowable for the current taxable year or any future taxable year during the compliance period, the Agency will file a single Form 8823 when it becomes aware of such event. The Agency will report on the Form 8823 that the building is entirely out of compliance and will not be in compliance in the future.

IX. FEES

During the compliance period, the owner of a Low Income Housing Tax Credit project will deposit with the Agency by January 31st of each year the monitoring fee as defined in Section VIII of the Allocation Plan.

Housing/Auditoría/Procedimientos/Monitoring-Plan

GLOSSARY

GLOSSARY

ACCEPTED UNITS

(As noted on the LIHTC Quarterly Status Report) (Form TC-92 CM1). Units for which Certificates of Occupancy have been issued.

AGENCY

Puerto Rico Housing Finance Corporation, as designated State Credit Agency for the Commonwealth of Puerto Rico.

ANNUAL INCOME

Total income anticipated to be received by a tenant from all sources including assets for the coming year.

ANNUAL HOUSEHOLD INCOME

A review of all persons who intend to permanently reside in a unit. The annual income is defined as income as of the date of occupancy for the coming year.

ANNUAL MANAGEMENT REVIEW

A review of a project made annually by the Agency, which includes an examination of records, a review of operating procedures, and a visual inspection of the project.

APPLICATION

Form completed by a person or family seeking rental of a unit in a project. An application should be in a form approved by the Agency and should solicit sufficient information so as to determine the applicant's eligibility and compliance with federal and Agency guidelines.

ASSETS

Items of value, other than necessary personal items, which are considered in determining the eligibility of a household.

ASSET INCOME

The amount of money received by a household from items of value as defined.

AWARD OR BENEFIT LETTER

Notification of income form which is completed by the agency or company providing benefits to tenants. Such income would include Social Security, pension, Supplementary Security Income (SSI) or disability income.

CERTIFICATION YEAR

The 12-month period beginning on the date the unit is first occupied and each 12-month period commencing on the same date thereafter.

COMPLETION CERTIFICATE

The developer's statement, furnished to the Agency that the acquisition and construction or substantial rehabilitation of the project has been substantially completed.

COMPLETION DATE

The specified ate on which a project is completed as set forth in the completion certificate.

COMPLIANCE

The act of meeting the requirements and conditions specified under the law and the LIHTC Program requirements.

COMPLIANCE TRAINING CONFERENCE

A meeting held by the Agency or the monitoring agent with the owner/developer and/or representative and management staff, if possible, within 45 days of receipt of a final tax credit allocation to review federal State law Agency policies and reporting procedures for the LIHTC Program.

CURE PERIOD

A reasonable time as determined by the Agency for an owner to correct any violations which have resulted in default under the Land Use Restriction Agreement.

CURRENT ANTICIPATED INCOME

Gross income as of the date of occupancy that is expected to be received by the tenant or tenants for the upcoming twelve months.

DEVELOPER

Any individual, association, corporation, joint venture or partnership which is a sponsor of a LIHTC project.

DISCREPANCY LETTER

Letter sent by the Agency or the compliance monitoring agent to the project manager, management company and/or owner/developer listing any discrepancies noted on a particular Quarterly Status Report (Form TC-92 MC1) and Annual Report, or an Annual Management Review.

EARNED INCOME TAX CREDIT

Income in the form of a tax credit given to families with both a dependent and annual employment income of less than the amount specified on the Earned Income Credit Table issued by the Internal Revenue Service. It is counted as income only to the extent that it exceeds tax liability.

EFFECTIVE TERM OF A VERIFICATION

Not to exceed 120 days. A verification is valid for 90 days, and may be updated orally for an additional 30 days. A verification must be within the effective term at time of tenant's Income Certification.

ELIGIBLE PERSON

One or more persons or a family determined to be of very low-income.

EMPLOYMENT INCOME

Wages, salaries, tips, bonuses, overtime pay, or other compensation for personal services from a job.

EVENT OF NONCOMPLIANCE

Occurs when the developer fails in the performance of compliance obligations.

FAIR MARKET VALUE

An amount which represents the true value at which property would be sold on the open market.

PRHFC

Puerto Rico Housing Finance Corporation (State Credit Agency)

GROSS INCOME - See Annual Household Income

HOUSEHOLD

The individual, family, or group of individuals living together as a unit.

IMPUTED INCOME (FROM ASSETS)

The estimated earning potential of assets held by a tenant using the potential earning rate established by HUD. The current rate is provided by the Agency in its instructions to the Income Certification.

INCOME CERTIFICATION

Document by which the tenant certifies his/her income, for the purpose of determining whether the tenant will be of very low-income according to the provisions of the LIHTC Program.

INCOME LIMITS

Maximum incomes as defined by the Agency for projects giving the maximum income limits per unit for very low-income (50% or 60% of median) units. These limits will be adjusted periodically by the Agency based on median figures provided by HUD.

INELIGIBLE PERSON

One or more persons or a family who apply for residency in a set-aside very low-income unit and whose combined income exceeds the chosen income limitation (i.e., 50% or 60% of median) or someone living in a set-aside unit who is not certified or under lease.

LAND USE RESTRICTIVE COVENANTS AGREEMENT

The agreement between the Agency and the developer restricting the use of the project during the term of the LIHTC compliance period.

LEASE

The legal agreement between the tenant and the owner which delineates the terms and conditions of the rental of a unit.

MANAGEMENT COMPANY

A firm selected by the owner/developer to oversee the operation and management of the project and who accepts compliance responsibility.

MANAGEMENT PLAN

Plan which delineates policies under which a project will be managed such as occupancy standards and maintenance plan.

MEDIAN INCOME

A determination made through statistical methods establishing a middle point for determining income limits. Median is the amount that divides the distribution into two equal groups; one group having income above the median and one group having income below the median.

MONITORING AGENT

The Agency or its designate responsible for monitoring the owner/developer's compliance with the terms and conditions specified under the law and the LIHTC Program.

OWNER/DEVELOPER - SEE DEVELOPER

PERSONAL PROPERTY CONSIDERED AS ASSETS

PROPERTY HELD AS AN INVESTMENT (GEMS, JEWELRY, COIN COLLECTIONS, ANTIQUE CARS). NECESSARY ITEMS (SUCH AS CLOTHING, FURNITURE, CARS, ETC.) ARE NOT CONSIDERED AS ASSETS.

PROJECT

RENTAL HOUSING DEVELOPMENT RECEIVING A LIHTC ALLOCATION.

REAL PROPERTY CONSIDERED AS ASSETS

OWNERSHIP IN BUILDINGS OR LAND.

SECTION 8 OF THE U. S. HOUSING ACT OF 1937, AS AMENDED

REGULATIONS USED IN DEFINING AND DETERMINING INCOME AS REQUIRED UNDER SECTION 103(B) (4) (A) OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED.

STUDENT - (FOR PURPOSES OF THE INCOME CERTIFICATION)

ANY INDIVIDUAL WHO HAS BEEN, OR WILL BE, A FULL-TIME STUDENT AT AN EDUCATIONAL INSTITUTION WITH REGULAR FACILITIES AND STUDENTS, OTHER THAN CORRESPONDENCE SCHOOL, DURING FIVE MONTHS OF THE YEAR.

SUBSTANTIAL REHABILITATION PROJECTS

FOR PURPOSES OF THE LIHTC PROGRAM, PROJECTS IN WHICH THE GREATER OF 10 PERCENT OF THE ADJUSTED BASIS OF THE BUILDING OR $3,000 PER LOW-INCOME SET-ASIDE UNITS IS EXPENDED FOR REHABILITATION PURPOSES.

TENANT

OCCUPANT OF A UNIT TO WHOM THE UNIT IS LEASED.

TENANT FILES

COMPLETE AND ACCURATE RECORDS PERTAINING TO EACH DWELLING UNIT, CONTAINING THE APPLICATION FOR EACH TENANT, VERIFICATION OF INCOME OF EACH TENANT, INFORMATION AS TO ASSETS, AN INCOME CERTIFICATION, AND LEASE. ANY AUTHORIZED REPRESENTATIVE OF THE AGENCY, THE COMPLIANCE MONITORING AGENT, THE DEPARTMENT OF TREASURY OR THE INTERNAL REVENUE SERVICE MAY BE PERMITTED ACCESS TO THESE FILES.

VERIFICATION

INFORMATION FROM A THIRD PARTY WHICH IS COLLECTED IN ORDER TO CORROBORATE THE ACCURACY OF INFORMATION CONCERNING INCOME PROVIDED BY APPLICANTS TO A PROJECT.

VERIFICATION REQUEST FORM

THE FORM USED BY MANAGEMENT TO REQUEST VERIFICATIONS OF INCOME FROM THE SOURCE OF THE INCOME. THE FORM MUST STATE THE PURPOSE OF THE REQUEST, INCLUDE A RELEASE STATEMENT BY THE APPLICANT, AND REQUEST THE FREQUENCY AND AMOUNT OF PAY.

SOURCE: HOUSING TAX CREDITS 1991: STATE AGENCY ADMINISTRATION AND THE PRIVATE AND NON-PROFIT SECTORS, PART VI, "STATE AGENCY MONITORING", PAGES VI-13, THRU VI-16, MARCH 20-21, 1991.

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APPENDIXES

INSTRUCTIONS TO COMPLETE UNIT STATUS REPORT FORM

Reporting Period		Indicate the reporting period for this report.
Property Name		Identify the project's name.
Identification Number		Provide the identification number assigned by the Agency.
A.	**Unit Number**	Number of Unit being reported.
B.	**Tenant Name**	Indicate name of Head of household. Enter "0" if the unit is not under lease or otherwise vacant.
C.	**Social Security**	Provide the social security number of the Head of household. Enter "0" if the unit is not under lease or otherwise vacant.
D.	**The number of bedrooms**	Indicate the total number of bedrooms in this unit.
E.	**The number of persons**	Indicate the total number of persons in this household. Write "0" if this unit is vacant.
F.	**Number of Dependents**	Indicate the total number of dependents in this household.
G.	**Move-In Date or Move-Out Date**	Indicate move-in date for each occupied unit. For vacant units, list the move-out date for the most recent tenant.
H.	**Last Effective Date**	Indicate effective date of the move-in or move-out, as applicable.

I.	**Action**	For each unit, indicate whether it is: 1 = Annual Certification 2 = Interim Certification 3 = Move-Out 4 = Rent Change 5 = Unit Transfer
J.	**Tenant Annual Income**	Indicate the household's annual (gross) income as reported on the most recent Tenant Income Certification.
K.	**Contract Unit Rent**	Indicate the rent HUD or Contract Administrator has approved for the unit type.
L.	**Utilities**	Indicate the utilities amount approved for this unit. if all utilities are included in the rent, enter "0".
M.	**Total Tenant Payment**	Indicate the Total Tenant Payment. The tenant payment is equal to the Gross Rent (Contract Unit Rent plus Utilities) less the Housing Assistance Payment (HAP).
N.	**Tenant Payment**	Indicate the tenant payment. The tenant payment is equal to the TTP less Utilities.
O.	**Housing Assistance Payment (HAP)**	Indicate the housing assistance payment approved for the tenant.

APPENDIX 3

Project:
Date:

ANNUAL CERTIFICATION OF OWNER AND MANAGEMENT AGENT
(model)

I hereby certify under penalty of perjury:

a. that I have received an annual low income certification from each low income tenant and the documentation to support that certification;

b. that each low income unit is rent-restricted under Section 42 (g) (2);

c. that all units in the project are for use by the general public and are used on a non-transient basis;

d. that each building in the project is suitable for occupancy taking into account local health, safety, and building codes;

e. that there has been no change in any building's eligible basis under Section 42 (d) (or if there is a change, explain the nature of it);

f. that the tenant facilities included in the eligible basis of any building in the project are provided without additional charge to the tenants in the building;

g. that if a low income unit in the project becomes vacant, reasonable attempts are made to rent that unit to tenants having qualifying income;

h. that while the unit is vacant no units of comparable or smaller size are rented to tenants not having a qualifying income;

i. that if the income of tenants of low income units increases above the limit allowed in Section 42 (g) (2) (D) (ii), the next available unit will be rented to tenants having a qualifying income;

j. That I complied with all other fair housing and equal opportunity requirements and with the provisions of any Federal, State, or local law prohibiting discrimination in housing on the grounds of race, color, religion or creed, sex, national origin, age, familial status or handicap, including Title VIII of the Civil Rights Act of 1968.

____

____

Date: ________________

[Notarized]

APPENDIX 4

VERIFICATION REQUIREMENTS AND PROCEDURES

A. General Requirements

1. Owners shall verify all income, household characteristics, and any circumstances that may affect eligibility and compliance under the LIHTC guidelines.

2. Written verification should be obtained directly from the income sources whenever possible.

3. Owners are advised to maintain documentation of all verification efforts for at least three years after the effective date of the tenant's certification or recertification.

B. Acceptable Methods for Verifying Information

1. *Written verification by a third party in preferred, as follows:*

   a. the owner's request for verification should state why the information is being requested and include a statement signed by the applicant/tenant authorizing the release of the information;

   b. owners must send the verification forms directly to the source, not through the applicant.

   c. when written verification is not possible, the most acceptable form of verification is direct contact with the source. The owner must document the conversation for the applicant's file and include all information that would have been provided in a written verification plus the date, time and the person's name providing the information and their qualification to provide the information.

2. *Review of Applicant Supplied Documents*

Owners may use documents submitted by the applicant when information does not require third party verification (i.e. birth certificate) or third party verification is impossible or delayed beyond four weeks of initial date of request.

3. *Applicant's Affidavit*

Owners may accept an applicant's notarized statement or signed affidavit only if other preferred forms of verification cannot be obtained.

C. <u>Effective Term of Verification</u>

Once qualified, a tenant is eligible to receive LIHTC rental benefits for one year from the date of occupancy.

D. <u>Expediting the Verification Procedure</u>

1. In order to expedite the verification process, owners should maintain a checklist for each tenant to document the verification process.

2. Develop standard forms for all information that must be verified.

3. Ask applicants/tenants to sign the copies of each verification form retaining one original in the applicant's file.

4. Make personal contacts with large employers and public assistance agencies from which a large number of tenants receive income or benefits.

5. Give the applicant an opportunity to explain any significant differences between the amounts reported by the applicant and the amounts reported on third party verifications in order to extract the correct information. Reverify if necessary.

E. <u>Acceptable Forms of Verification</u>

Owners should develop verification forms and procedures that comply with the following requirements.

1. Employment/income: Any verification form should request the employer to specify the:

   a. Frequency of pay;

   b. effective date of the last pay increase;

   c. probability and effective date of any increase during the next twelve (12) months (e.q. cost of living increases in labor contracts).

2. Acceptable forms of verification include:

   a. Employment verification form completed by the employer;

b. check stubs or earning statements showing employee's gross pay per pay period and frequency of pay;

c. w-2 forms if applicant has had the same job for at least two years and pay increases can be accurately projected;

d. notarized statements, affidavits or income tax returns signed by the applicant describing self-employment and the amount of earned income and other gratuities.

3. Social Security, Pensions, Disability Income:

a. Benefit verification form completed by agency providing the benefits;

b. award or benefit notification letters prepared and signed by the authorizing agency. (Since checks or bank deposit slips show only net amounts remaining after deductions for Medicare, they may be used only when award letters cannot be obtained.);

c. if a local Social Security Administration (SSA) office refuses to provide written verification, the owner should meet with the office supervisor, the verification forms in a timely manner, the owner may accept a check or automatic deposit slips as interim verification or State Health Insurance withholdings are included in annual income.

4. Unemployment Compensation:

a. Verification form completed by the unemployment compensation agency;

b. Records from unemployment office stating payment dates and amounts.

5. Alimony or Child Support Payments:

a. Copy of a separation or settlement agreement or a divorce decree staying amount and type of support and a schedule of payments;

b. a letter from the person paying the support;

c. applicant's notarized statement or affidavit as to amount received or that support payments are not being received and the likelihood of support payments being received in the future.

6. Earned Income Tax Credit:

   a. For credits applied in one lump sum against tax liability, use Income Tax Return (IRS Form 1040 or 1040A);

   b. for credits applied through regular salary pay checks, use IRS Form W-5 (Earned Income Credit Advance Payment Certificate).

7. Net Income from a Business

The tenant must provide a projection or estimate of income and expense to be realized by the business during the next 12 months. The owner may use the previous years' financial information to substantiate the reasonableness of the tenants projection. The following documentation should be used in the verification process.

   a. IRS Tax Return, Form 1040;

   b. an accountant's calculation of depreciation expense, computed using straight-line depreciation rules. (Required when accelerated depreciation is used on the tax return or financial statement.);

   c. financial statements, preferably audited, of the business.

   d. loan/application listing gross income realized by the business during the previous 12 months;

   e. applicant's notarized statement or affidavit as to net income realized from the business during previous year.

8. Recurring Gifts:

   a. Notarized statement or affidavit signed by the person providing the assistance. The statement should define the purpose, dates, and value of gifts. Copies of canceled checks ore receipts can be used to verify tuition, fees, books, and equipment, and other such net income and expenses that are not expected to change during the next 12 months.

   b. receipts or bills for rent and utility costs paid by others on behalf of the family.

9. Savings Accountant Interest Income and Dividends:

   a. Accountant statements, passbooks, certificates of deposit, etc., or a written statement from the financial institution describing the source and the amount of the earnings;

b. broker's quarterly statement showing value of the earnings credited to the applicant;

c. if an owner accepts an IRS Form 1099 from a financial institution, the owner must then project the earnings expected for the next 12-month period. Variable interest rates, etc., could affect the applicant's income.

10. Interest Income form Sale of Real Property Pursuant to a Purchase Money Mortgage, Installment Sales Contract or Similar Agreement:

a. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for the next 12 months;

b. amortization schedule showing interest for the next 12 months following the effective date of the certification.

11. Rental Income form Property Owned by Applicant

Owners must adjust these amounts for changes expected during the next 12 months.

Use:

a. IRS Form 1040 with Schedule E (Rental Income);

b. copies of latest rent checks, leases, or utility bills;

c. documentation of applicant's rental income and related expenses in renting the property (tax statements, insurance premiums, receipts for reasonable maintenance and utilities, bank statements or amortization schedules showing monthly interest expense).

F. Tracking the Verification Process

The resident manager should maintain a tracking system to manage the timely completion of the tenant verification process.

ANNUAL RECERTIFICATIONS

A. The Need to Recertify

Each year prior to the anniversary date of the tenant's lease, the landlord must recertify the tenant information which is subject to change (e.g. family status, gross family income etc.).

B. Recertification Procedure

To expedite the recertification process the property manager should:

1. Notify the tenant of the need to recertify;

2. Incorporate the tenant's responsibility for recertification, including the timeless, into the lease;

3. give the tenant 60 days' notice prior to the lease termination date of the need to recertify;

4. complete all recertification steps at least 30 days prior to the lease termination date so that rent may be increased to market or notice to vacate can be given 30 days in advance of the termination of the tenant's lease;

5. send a follow-up request if the tenant does not respond within 10 days of the request for the recertification information.

6. interview the tenant to obtain information to verify income, assets, and family composition;

7. tenants must sign the Income Verification Forms and other verification forms as required;

8. verify all information.

C. Failure to Recertify

If the tenant does not comply with the recertification process, the owner may, at his discretion:

1. Terminate the tenant's lease for failure to comply with the terms of the rental contract;

2. make sure that he complies with the requirements to give advance termination notice, as established in the lease contract;

3. whenever possible, transfer the tenant to a market rate unit, to maintain LIHTC compliance of the restricted unit.

<u>NOTE:</u> ***An increase in rent to market rent may seem a good way to encourage the tenant to complete the recertification process, but may render the unit out of compliance.***

D. Tracking Project Compliance

1. The management company should keep the owner appraised of compliance status through a combination of reports, such as the monthly compliance or unit status reports, or other appropriate media;

2. all communications between management and the tenant should be kept in the individual tenant's file;

3. the recertification process may be tracked by using a Tenant Verification Worksheet.

E. Recertification Period

The recertification must be an estimate of income expectation for the subsequent 12-month period following certification. If it is not possible to anticipate the level of income over a 12-month period, the income anticipated for a shorter period may be annualized; however, a redetermination of income must be made at the end of the shorter period.

GLOSSARY

GLOSSARY

AGENCY

Puerto Rico Housing Finance Corporation, as designated State Credit Agency for the Commonwealth of Puerto Rico.

ANNUAL INCOME

Total income anticipated to be received by a tenant form all sources including assets for the coming year.

ANNUAL HOUSEHOLD INCOME

Gross income of all persons who intend to permanently reside in a unit. The annual income is defined as income as of the date of occupancy for the coming year.

ANNUAL MANAGEMENT REVIEW

A review of a project made annually by the Agency, which includes an examination of records, a review of operating procedures, and a visual inspection of the project.

APPLICATION

Form completed by a person or family seeking rental of a unit in project. An application should be in a form approved by the Agency and should solicit sufficient information so as to determine the applicant's eligibility and compliance with federal and Agency guidelines.

ASSETS

Items of value, other than necessary personal items, which are considered in determining the eligibility of a household.

ASSET INCOME

The amount of money received by a household from items of value as defined.

AWARD or BENEFIT BETTER

Notification of income form which is completed by the agency or company providing benefits to tenants. Such income would include Social Security, pension, Supplementary Security Income (SSI) or disability income.

CERTIFICATION

The 12-month period beginning on the date the unit is first occupied and each 12-month period commencing on the same date thereafter.

COMPLIANCE

The act of meeting the requirements and conditions specified under the law and the LIHTC Program requirements.

CURRENT ANTICIPATED INCOME

Gross income as of the date of occupancy that is expected to be received by the tenant or tenants for the upcoming twelve (12) months.

DEVELOPER

Any individual, association, corporation, joint venture or partnership which is a sponsor of a LIHTC project.

DISCREPANCY LETTER

Letter sent by the Agency, to the project manager, management company and/or owner/developer listing any discrepancies noted on any required report, certification, on-site inspection or Management Review.

ELIGIBLE PERSON

One or more persons or a family determined to be of very low-income.

EMPLOYMENT INCOME

Wages, salaries, tips, bonuses, overtime pay, or other compensation for personal services from a job.

EVENT OF NONCOMPLIANCE

Occurs when the owner/developer or management agent falls in the performance of compliance obligations.

PRFHC

Puerto Rico Housing Finance Corporation (State Credit Agency).

MANAGEMENT PLAN

Plan which delineates policies under which a project will be managed such as occupancy standards and maintenance plan.

MEDIAN INCOME

A determination made through statistical methods establishing a middle point for determining income limits. Median is the amount that divides the distribution into two equal groups; one group having income above the median and one group having income below the median.

MONITORING AGENCY

Puerto Rico Housing Finance Corporation as the State Credit Agency.

OWNER/DEVELOPER - See DEVELOPER

PERSONAL PROPERTY CONSIDERED AS ASSETS

Property held as an-investment (gems, jewelry, coin collections, antique cars). Necessary items (such as clothing, furniture, cars, etc. are not considered as assets.

PROJECT

Rental housing development receiving a LIHTC allocation.

REAL PROPERTY CONSIDERED AS ASSETS

Ownership in buildings or land.

SECTION 8 of the U.S. HOUSING ACT OF 1937, AS AMENDED

Regulations used in defining and determining income as required under Section 103 (b) (4) (A) of the Internal Revenue Code of 1954, as amended.

STUDENT - (For purposes of the Income Certification)

Any individual who has been, or will be, a full time student at an educational institution with regular facilities and students, other than correspondence school, during five months of the year.

TENANT

Occupant of a unit to whom the unit is leased.

TENANT FILES

Complete and accurate records pertaining to each dwelling unit, containing the application for each tenant, verification of income of each tenant, information as to assets, an Income Certification, and lease. Any authorized representative of the Agency, the Department of Treasury or the Internal Revenue Service may be permitted access to these files.

VERIFICATION

Information from a third party which is collected in order to corroborate the accuracy of information concerning income provided by applicants to a project.

VERIFICATION REQUEST FORM

The form used by management to request verifications of income from the source of the income. The form must state the purpose of the request, include a release statement by the applicant, and request the frequency and amount of pay.

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