

ReBUILD NC

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Multi-Family Program Manual

State of North Carolina

For U.S. Department of Housing and Development
CDBG-DR and CDBG-MIT Funds

Revision History

VERSION	REVISION DESCRIPTION	RELEASE DATE
1	Initial version	4/21/2021

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Introduction and Overview of the ReBuild NC Multifamily Development Fund Program

NCORR's primary focus is housing recovery for both homeowners and renters across the Hurricane Matthew impacted area. A combination of programs, including a Homeowner Recovery Program, a Small Rental Repair Program, a Strategic Buyout Program, the Multifamily Development Fund Program and a Public Housing Restoration Fund, address a multitude of renter and homeowner needs. These funds will assist existing homeowners with repairs to their storm-damaged homes; will fund the repair of existing rental stock (small rental structures); build new, affordable rental housing through supplemental funding provided to Low Income Housing Tax Credit (LIHTC) developers; will offer buyout of homes for households impacted by Hurricane Matthew who wish to relocate to areas outside of flood hazard areas; and will rehabilitate or relocate vulnerable public housing units.

NCORR recognizes the significant recovery challenges that face renters across the impacted areas of the state. Approximately one in four individuals receiving FEMA assistance are renters. To address the significant renter recovery need, NCORR has designed the Multifamily Development Fund Program to repair majorly to severely damaged rental housing in storm-impacted communities and to create new affordable multifamily rental housing for LMI renters.

Through a Memorandum of Agreement, this program will be administered by the North Carolina Housing Finance Agency (NCHFA) on behalf of NCORR and will provide supplemental funding to NCHFA's allocation of LIHTC funds in order for NCHFA to offer funds to three additional LIHTC applicant/developers that were successfully scored but were not able to receive LIHTC funding due to allocation limitations. The 2019 Qualified Allocation Plan (QAP) published by NCHFA delineates additional policy requirements as well as procedures for NCORR's Multifamily Development Fund Program. It is incorporated herein and attached as Exhibit A, and all of its appendices can be found at https://www.nchfa.com/rental-housing-partners/rental-developers/qualified-allocation-plan/2019-qualified-allocation-plan-qap. Projects identified in other calendar year QAPs may also be eligible for CDBG-DR funding.

This manual presents the Multifamily Development Fund Program that provides within it great flexibility concerning options for use of these CDBG-DR funds to:

1. rehabilitate existing multifamily for affordable rental housing; or
2. develop new long-term affordable rental housing.

Program Administration

NCORR is an office under the auspices of the NC Department of Public Safety (NCDPS). NCORR is the administrator of the CDBG-DR funds that provide funding for the administration of the ReBuild NC disaster recovery programs.

As the CDBG-DR administrator, NCORR must ensure that its programs and expenditures are in compliance with HUD regulations. CDBG-DR recovery program activities may be carried out by NCORR staff or its agents, including Program delivery contractors, appraisers, demolition contractors, etc.

This Multifamily Development Fund Program will be administered by North Carolina Housing Finance Agency (NCHFA) on behalf of NCORR. NCHFA will be responsible for ensuring that all applicable federal, state, local regulations are followed.

Manual Overview

This Manual outlines the policies that the State of North Carolina and its agents will utilize to direct the operation of the Multifamily Development Fund Program (the program). This Manual is intended to serve as a resource for NCORR, its agents, Units of Local Government (UGLGs), the North Carolina Housing Finance Agency (NCHFA), and Owners/Developers of affordable rental housing, including eligibility requirements, the types of assistance offered, and program recipient obligations. It serves as a general reference guide for administrative staff and interested parties, including For-Profit and/or Non-profit Partners, contractors, subrecipients, and units of general local government that are engaged as Subrecipients (if applicable) to deliver assistance through the program.

This Manual only addresses the Multifamily Development Fund Program and is not intended to be a full compilation of all internal program procedures that the state and its agents follow to ensure effective administration of the policies contained in this manual. This Manual, the State Action Plan, and subsequent amendments, and the policy manuals for other North Carolina Disaster Recovery programs are available for public review and use at the below link:

https://rebuild.nc.gov/about-us/plans-policies-reports

Program Objectives

The objective of the Multifamily Development Fund Program is the development of new multifamily housing, defined as eight (8) or more units on a single site/project, to be used as long-term, affordable rental housing for Low- and Moderate-Income (LMI) households.

NCORR will achieve program objectives by partnering with NCHFA. NCHFA will loan CDBG-DR funds to qualified developers to execute construction of new multifamily housing.

Program priorities include:

1. Site location/suitability
2. Proposer capacity
3. Set-aside of units for ELI and VLI
4. Innovative and leveraged approaches
5. Set-aside of units for special needs populations

Meeting National Objectives, Requirements, and Priorities

The CDBG National Objective for NCORR's Multifamily Development Fund Program qualifies as a benefit to Low/Moderate Income (LMI) persons. More specifically, under the LMI National Objective, this program will be identified as a Low/Moderate Housing (LMH) activity.

The housing category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.

ELIGIBILITY CRITERIA

Eligible Applicants

1. Applicants must meet all requirements of NCHFA's Low Income Housing Tax Credit and Tax-Exempt Bond programs as specified in the QAP published by NCHFA for the applicable project award year.
2. In addition to eligibility conditions in the QAP, no individuals or entities affiliated with the application may be included on federal and state debarment lists in accordance with 24 CFR 570.609 and other applicable laws.
3. Applicants must not discriminate based upon race, color, religion, sex, national origin, physical or mental handicaps, or family status.

Eligible Developments

1. Rental development must have eight (8) or more rental units under common ownership.
2. Proposed new construction must be located outside of the Special Flood Hazard Area, as identified on the most current Federal Emergency Management Agency (FEMA) Flood Map; otherwise, the proposed site must follow the requirements outlined in Section R. 4. (a)-(c) in the Memorandum of Agreement between NCHFA and NCORR.
3. NCORR requires that one hundred percent (100%) of the units rehabilitated or developed comply with a minimum twenty-year (20-year) affordability period which ensures that the units remain affordable to households earning eighty percent (80%) or less of the Area Median Income.
4. Project costs must be reasonable and typical in the current marketplace for projects of similar scope, as determined by NCHFA.
5. The project must comply with all applicable federal and state requirements.

Eligible Activities

1. Rehabilitation of properties damaged by Hurricane Matthew.
2. New construction of properties.
3. Acquisition of existing multifamily properties to preserve or create affordable units.
4. Acquisition of land for multifamily properties. Land acquisition must be in conjunction with new construction.

Types and Maximum Assistance

The maximum award for any individual award will be limited to:

1. $53,000 per unit for rehabilitation
2. $150,000 per unit for reconstruction or new construction

NCORR reserves the right to alter the maximum award based upon applications and may on a case-by-case basis utilize this exception policy to address specific affordable rental housing needs. The conditions through which the program maximum award can be exceeded will be detailed in the program's Policies and Procedures and NCORR will document when the exception is applied.

Awards will be structured as non-amortizing loans. Loan commitments are not transferrable and become due and payable in full in the event of noncompliance or default during the term of the loan. Loans will have a thirty (30) year minimum term. Loans may be structured as forgivable at maturity following consultation with NCHFA subject matter experts.

Utility Allowance

Tenant net rent will be calculated after applying a HUD utility allowance. NCORR will utilize the most recent utility allowance standard provided by HUD for Public Housing Authorities (based upon location) and will use HUD's Utility Schedule Model (HUSM). This web-based HUD calculator can be found at: https://tools.huduser.gov/husm/uam.html

Property and Construction Standards

All awarded development projects will be required to meet NCORR's Minimum Property Standards (adopted from HUD Minimum Property Standards).

Housing constructed or rehabilitated with CDBG-DR funds must meet all applicable local codes, ordinances, and rehabilitation standards, at the time of project completion. Housing must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.21 and must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

Green Standards

New housing construction and replacement of substantially damaged buildings must include compliance with ONE of the following green standards:

- ENERGY STAR (Certified Homes or Multifamily High-Rise)
- LEED (a program that sets standards used internationally for design, construction, and maintenance of environmentally sustainable buildings and infrastructure)
- Enterprise Green Communities (certification program offered by Enterprise Community Partners, Inc., a national affordable housing non-profit)
- ICC-700 National Green Building Standard (a rating and certification program authored by the National Association of Home Builders of the United States that encourages increased environmental and health performance in residences)
- Other equivalent comprehensive green building program acceptable to HUD

Applicants are required to submit documentation to NCHFA providing evidence of selection of the green standards they will apply to the project. In addition, awarded applicants will be required to submit a Certificate of Compliance with the chosen standard's compliance process.

North Carolina Housing Finance Agency Partnership

A Memorandum of Agreement (MOA) between NCORR and NCHFA will provide the framework and scope of work to be completed by NCHFA. It is anticipated that NCHFA will utilize the CDBG-DR funding allocated for this program to provide funding to two (2) 9% Tax Credit projects and one (1) 4% Tax Exempt Bond project, according to NCHFA's 2019 Qualified Allocation Plan (QAP).

AWARDED PROJECTS

Applicants on awarded projects will enter into a Work Agreement with NCHFA that shall perform or cause to be performed all of the design, construction, and related work required to complete the project. The Work Agreement will specify and incorporate disbursement parameters and requirements. The Work Agreement will also specify that all CDBG-DR funds allocated to the Developer will be disbursed to NCHFA first, on a reimbursement basis.

As a condition of funding, each selected Developer must submit to NCHFA and NCORR the proposed scope, budget, and schedule for all of the work contemplated for the proposed project. In addition, NCHFA shall submit to NCORR any documentation it used to select the Developer/Project that will receive CDBG-DR funds.

NCHFA shall also submit, in draft form, the Work Agreement, NCHFA conditional commitment letter, and all applicable loan documents to NCORR for review before executing such documents.

Upon execution of the Work Agreement with the Developer, NCHFA shall submit the following documentation to NCORR for its review and record:

1. Rent schedule
2. Affordability requirements
3. Lease requirements
4. Tenant selection criteria
5. Compliance with applicable state and local tenant/landlord laws
6. Lead-Based Paint requirements (if applicable)
7. Fair Housing and equal opportunity provisions
8. Fund disbursement
9. Recordkeeping and reporting provisions
10. Enforcement provisions
11. Procedures used to secure rent increases

NCORR is committing funding for the new construction of two (2) multifamily rental developments that submitted an application to the 2019 QAP for the 9% LIHTC program and one (1) multifamily rental development that submitted an application to the 2019 QAP for the 4% Tax Exempt Bond program. All developments committed funding under this program are to be located in counties declared Most

Impacted and Distressed by HUD for Hurricane Matthew: Bladen, Columbus, Cumberland, Edgecombe, Robeson, and Wayne. It is the intent of both NCORR and NCHFA that these funds will only be used for the three (3) projects awarded by NCHFA as part of their competitive awarding process.

Duplication of Benefits

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. §5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he has received financial assistance under any other program or from insurance or any other source. In accordance with the Stafford Act, Disaster Recovery funds issued through the Department of Housing and Urban Development's CDBG-DR program may not be used for any costs for which another disaster recovery assistance was previously provided for the same purpose.

Generally, financial assistance received from another source that is provided for the same purpose as the CBDG-DR funds is considered a Duplication of Benefit (DOB).

As mandated by law, all NCORR projects receiving CDBG-DR funding must evidence an analysis of funds potentially received for the same purpose as the intended CDBG-DR grant, otherwise known as a duplication of benefits analysis (DOB). All Partners must submit all funding sources, including FEMA awards and private insurance proceeds, to be analyzed. NCORR conducts an analysis to establish that there is no duplication of benefits.

The total DOB is calculated by subtracting non-duplicative exclusions from total assistance. Calculation of the total maximum amount of the CDBG-DR award is determined after the grantee (1) identifies total need; (2) identifies total assistance; (3) subtracts exclusions from total assistance; and (4) subtracts the amount of the DOB from the amount of the total need to determine the maximum amount of the CDBG-DR award.

Three considerations may change the maximum amount of the CDBG-DR award.

First, the grantee may impose a program cap that limits the amount of assistance an applicant is eligible to receive, which may reduce the potential CDBG-DR assistance available to the applicant.

Second, the grantee may increase the amount of an award if the applicant agrees to repay duplicative assistance it receives in the future (unless prohibited by a statutory order of assistance, as discussed in section V.C.). Section 312(b) of the Stafford Act permits a grantee to provide CDBG-DR assistance to an applicant who is or may be entitled to receive assistance that would be duplicative if: (1) The applicant has not received the other assistance at the time the CDBG-DR grantee makes its award; and (2) the applicant agrees to repay the CDBG-DR grantee for any duplicative assistance once it is received (subrogation). The agreement to repay from future funds may enable a faster recovery in cases when other sources of assistance are delayed (e.g., due to insurance litigation). HUD requires all grantees to enter agreements with applicants that require applicants to repay duplicative assistance before receiving

CDBG-DR assistance. Third, the applicant's CDBG-DR award may increase if a reassessment shows that the applicant has additional unmet need.

NEW CONSTRUCTION – ANALYSIS

With the exception of certain Federal Emergency Management Agency grants, FEMA, National Flood Insurance Program (NFIP), Private Flood Insurance proceeds, and Small Business Administration (SBA) Loans are generally not considered to be intended for the purpose of new construction of affordable housing. Regardless NCORR requires that all developers of new affordable housing funded under this program disclose all sources of funding including these where applicable.

REPAIR – ANALYSIS

In instances where the program identifies critical resiliency needs, information is requested from program partners to determine if funding was available for the same purpose.

POTENTIAL LIST OF DUPLICATIVE BENEFITS

The applicant/developer must consider the total assistance available to them. This includes all benefits, including cash, insurance proceeds, grants from FEMA, SBA loans, as well as any other assistance received by the applicant from other local, state, or federal programs, or private or nonprofit charities. Partners should pay special attention to the following potential sources of benefits and confirm that the below-mentioned sources of benefits have been exhausted or may be made available for the project:

- National Flood Insurance Program (NFIP): Insurance proceeds received must be disclosed by the applicant.
- Private Insurance: All insurance proceeds received must be disclosed by the applicant. Where necessary, the program will look for “undeclared” insurance benefits as well as confirming those disclosed by the Sponsor.
- FEMA: FEMA proceeds received must be disclosed by the applicant.
- Other: Funds received from other sources must be disclosed by the applicant and verified by the program. Examples include nonprofits, other governmental agencies, and social groups.

NCORR will use documentation supplied by the applicant/developer. If an applicant is able to provide documentation demonstrating that the insurance proceeds amount provided by the FEMA database includes items not covered in the evaluation or not paid to cover structural loss, NCORR will use the documentation provided by the applicant to adjust the insurance payout considered in the DOB analysis. The documentation provided by the applicant must come from the insurance company that issued the payments.

Public Participation

As the agency administering the ReBuild NC Program, NCORR is committed to furthering fair housing through established affirmative marketing and outreach activities. As a recipient of federal CDBG-DR funds, NCORR is required to take steps based on the Fair Housing Act of 1968 to reduce disparities in housing choice, access, and opportunities based on a protected class (e.g., race, color, religion, familial status, sex, national origin or disability). Toward achieving that objective, NCORR will ensure that its outreach, communication, and public engagement efforts are comprehensive in order to reach as many eligible applicants as possible.

North Carolina's Citizen Participation Plan provides North Carolina citizens with an opportunity to participate in the planning, implementation, and assessment of the state's CDBG-DR recovery program. The Plan sets forth policies and procedures for citizen participation, in accordance with federal regulations, that are designed to maximize the opportunity for citizen involvement in the community development process. The state has attempted to provide all citizens with the opportunity to participate, with particular emphasis on low-and moderate-income individuals, individuals with limited English proficiency, and individuals requiring special accommodations due to disabilities. The state's Citizen Participation Plan ensures that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for use of CDBG-DR grant funds.

The state uses news outlets, print, and social media in addition to means such as press releases, posting notices on the North Carolina Governor's website and/or NCORR's website, to maximize the access of program information to the impacted citizens and businesses.

LIMITED ENGLISH PROFICIENCY

As the CDBG-DR administrator, NCORR is required to ensure meaningful access to agency services, programs, and activities for persons who have Limited English Proficiency (LEP). Applicants who have difficulty speaking or reading English can request the following services be made available to them in accordance with the NCORR Language Access Policy:

- Provision of an interpreter who translates to and from the person's primary language.
- Translation of program documents.

ACCESSIBILITY AND REASONABLE ACCOMMODATIONS

The Multifamily Development Fund Program will be accessible to all persons with special needs and will operate in a manner that does not discriminate or limit access to program services and benefits to persons with disabilities. To ensure that the Multifamily Development Fund Program is operating in compliance with Section 504 requirements of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA), NCORR will use assigned staff in accordance with its Section 504 Compliance Plan to:

- Ensure that all facilities where clients will have face-to-face interaction with [program staff are readily accessible and usable by persons with disabilities.
- Appropriately address any identified hearing, visibility, or mobility limitations of the applicant as required by Section 504 and the Americans with Disabilities Act (ADA).
- Work with a disabled applicant's designee who has the power of attorney or any non-profit organization that is representing the applicant as needed.

All services listed above can be provided upon verbal or written request from the applicant. No additional documentation is required.

In addition, NCORR complies with Section 508 requirements regarding the accessibility to electronic and information technology for individuals with disabilities. NCORR's program management vendor assists with ensuring that all public communications, including its ReBuild NC website, meet Section 508 requirements.

FAIR HOUSING

The Fair Housing Act requires all grantees, partners, subrecipients, and/or developers whose capital projects are wholly or partially funded with federal assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. NCORR and its subrecipients like NCHFA shall ensure that no applicant is treated in any way that does not comply with the federal Fair Housing Act, the Civil Rights requirements of Title I of the Housing and Community Development Act, and the North Carolina Fair Housing Act (Chapter 41A of the North Carolina General Statutes). NCORR has assigned staff who will ensure that:

- ReBuild programs affirmatively further fair housing;
- Fair Housing complaints are directed to HUD or other appropriate agency; and
- ReBuild programs are administered in accordance with NCORR's Fair Housing Plan.

Environmental Review

CDBG disaster grant funding from HUD is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. Projects are also subject to State Environmental Quality Review (SEQR). All projects which involve new construction, change of use (as in adaptive reuse projects), or increase the floor area of an existing residential structure by 20% or more must successfully complete an Environmental Assessment (EA) prior to entering into a funding commitment for projects. For projects which involve substantial rehabilitation of existing residential structures, an abbreviated environmental review may be applicable. Pre-application technical assistance is available to discuss these matters further. All awards will be considered conditional until the environmental review is complete.

Program Administrative Requirements and Cross-Cutting Federal Regulations

NCORR and its beneficiaries, subrecipients, and contractors must adhere to federal and state requirements, as applicable, and provide confirmation of compliance upon request. This section provides a summary of the significant and applicable federal regulations for all program activities.

AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of a telecommunications device for the deaf (TDD)/telephone relay services. NCORR takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by NCORR and that any services are delivered in the most integrated manner possible. Qualified persons with disabilities are informed of the availability of program services and activities, and NCORR's programs or services are readily accessible to and usable by, individuals with disabilities. NCORR also ensures that reasonable modifications or changes to policies, practices, or procedures are made in order to guarantee people with disabilities equal access to services and programs. Additionally, all programs and activities are accessible, both structurally and administratively, to persons with disabilities. NCORR's mandate to conform to the requirements of ADA flows down to all of its stakeholders, including subrecipients, vendors, and developers.

DAVIS-BACON LABOR STANDARDS

The Davis-Bacon Act and Related Acts (DBRA) apply to contractors and subcontractors carrying out federally funded or assisted contracts for residential construction where the property has eight or more units, or to nonresidential construction projects in excess of $2,000. In cases where North Carolina Prevailing Wage Law is in effect, the higher prevailing wage rate between the federal and state must be adhered to and made applicable. NCORR must follow reporting requirements per HUD and U.S. Department of Labor regulations. This requirement extends to NCORR subrecipients, developers whose projects are awarded under the Multifamily Development Fund Program, and their contractors.

The Compliance Group ensures that NCORR's CDBG-DR program and services are in compliance with DBRA through the submission of certified payroll records and interviews of prime and subcontractor laborers. NCORR utilizes Salesforce to track, review, and monitor weekly payroll submissions by contractors. NCORR procured as its system of record Salesforce Systems, a cloud-based system that has a Davis-Bacon, labor, and contract compliance management module, to assist with DBRA compliance.

EQUAL EMPLOYMENT OPPORTUNITY

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal contractors and federally assisted construction contractors and subcontractors who do over $10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

FAIR HOUSING

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance for housing-related activities to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. For Public Housing projects NCORR enforces the Fair Housing Act by ensuring that all subrecipients and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms on NCORR's or the RebuildNC.gov website, as applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the applicant or recipient will affirmatively further fair housing throughout applicable NCORR disaster recovery programs.

FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED

The Fair Labor Standards Act of 1938, as amended (FLSA), establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under NCORR's CDBG-DR program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

In some cases, North Carolina Prevailing Wages and Davis-Bacon Prevailing Wages both apply. In such instances, the higher of the two prevails. Exceptions to FLSA include:

- Construction contracts of $2,000 or less;
- Real property acquisition;
- Architectural and engineering fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and
- Debris removal, demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction). Contact an NCORR CDBG-DR Labor Specialist for assistance.

LIMITED ENGLISH PROFICIENCY

Federal Executive Order 131661 requires NCORR and all satellite offices, programs, recipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. NCORR ensures fair access through the implementation of a Language Assistance Plan (LAP) which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. NCORR is responsible for coordinating all activities associated with the LAP and coordinating with North Carolina's 2-1-1 relay system to assist persons with LEP.

MINORITY-AND/OR WOMEN-OWNED ENTERPRISES

Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned Business Enterprises (MBEs). 2 CFR 200.321 requires the non-federal entity to take all necessary steps to ensure that all recipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms when possible.

North Carolina wants to ensure that public entities utilize M/WBE firms through its HUB program managed at the Division of Administration. As noted in Executive Order 25, Section 5, the HUB program works to incorporate HUD's programmatic requirements into contracting opportunities. As such, NCORR ensures compliance with these goals by requiring, as applicable, recipients and contractors to make best efforts to achieve the overall M/WBE participation goal that the state has set for the entire contract value.

For all projects and agreements, NCORR will be required to make best efforts to achieve an overall M/WBE participation goal of 10% of the entire contract, per Executive Order 25. NCORR verifies with DOA HUB the M/WBE certification, and that the Compliance Group monitors to ensure compliance with all reporting requirements through Salesforce.

For all Multifamily Development Fund projects, NCORR works with applicants and subrecipients to provide the TA, guidance, and one-on-one support required to implement good faith efforts and meet applicable M/WBE thresholds. The Compliance Group monitors the level of M/WBE utilization and provides additional support as required.

SECTION 3

Section 3 of the Housing and Urban Development Act of 1968 requires that grantees, subgrantees, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by CDBG-DR funding, to the greatest extent feasible, extend hiring opportunities and contracts to Section 3 eligible residents and businesses. Section 3 eligible residents are low- and very low-income persons, particularly those who live or reside in public or government-assisted housing.

For those entities that receive more than $200,000 in HUD CDBG-DR assistance and contractors that are awarded covered contracts that exceed $100,000, NCORR requires that an approved Section 3 plan be in place before the project is awarded and approved. On a quarterly basis, the Compliance Group reviews and tracks quarterly reports as well as calculates utilization rates. The Compliance Group produces quarterly reports with current utilization rates.

NCORR provides training, TA, and one-on-one support for all projects, especially in terms of developing and reviewing Section 3 plans, as well as implementing best efforts to meet Section 3 goals. NCORR also reviews Section 3 goal attainment and provides additional on-the-ground support where required.

For the Multifamily Development Fund Program, projects are required to meet Section 3 requirements as shown above. Section 3 goals and objectives are set depending on the date of completion of each project and project bid dates. NCORR staff ensures that Section 3 objectives are addressed through direct TA with individual applicants and file reviews of projects.

RESIDENTIAL ANTI-DISPLACEMENT

NCORR and all subrecipients must follow a Residential Anti-Displacement Policy. The policy can be accessed in Appendix 38 of the URA Standard Operating Procedure & Optional Relocation Policy here: Final-URA-and-TRA-SOP-with-Appendices-1-28-19.pdf (nc.gov).

Subrecipients or contractors must provide the following benefits to households or businesses that they displace:

- Relocation advisory services;
- A minimum of 90-day notice to vacate;
- Reimbursement for moving expenses; and

- Payments for added cost of renting or purchasing comparable replacement housing.

UNIFORM RELOCATION ACT AND REAL PROPERTY ACQUISITION

In order to carry out program activities in compliance with URA requirements, NCORR has adopted the *URA Standard Operating Procedures and Optional Relocation Policy.* This document provides program staff and contractors with Standard Operating Procedures to meet URA requirements for the temporary and permanent displacement of tenants. This document also outlines NCORR's Optional Relocation Policy for owner-occupants voluntarily participating in the Multifamily Development Fund Program. The document can be accessed here: Final-URA-and-TRA-SOP-with-Appendices-1-28-19.pdf (nc.gov).

Real Property

If CDBG-DR funds are used to acquire real property, NCORR ensures that the property continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, NCORR is reimbursed for the CDBG-DR share of the property's value.

This approach to the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector subrecipient (the rules are generally more explicit for governmental grantees) or a private sector subrecipient. Second, real property (e.g., land, buildings) is treated differently than personal property, as required in 2 CFR 200.

The federal requirements relating to real property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the performance of regular inventories, adequate maintenance, and control and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that results in the highest possible return. For the sale of property owned by local governments, competitive disposal procedures are required under Article 12 of Chapter 160A of the North Carolina General Statutes, and generally include public notice of the intended sale, price competition, contract award to the highest responsive, responsible bidder, and governing board approval of the conveyance.

Acquisition of Real Property

Upon notification of permission from NCORR, the recipient may proceed with efforts to acquire any real property, including easements and rights-of-way, required for the project. CDBG-DR federal funds, administered by NCORR and disbursed to recipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974 as waived by (81 FR 83254) and (82 FR 5591). The applicable federal regulations are located at 49 CFR Part 24 (URA) and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

A purchase option agreement on a proposed site or property prior to the completion of the environmental review is allowed if certain actions have been taken ahead of time: 1) the option agreement must be subject to a determination by the recipient on the desirability of the property for the project; 2) an environmental review must have been completed; and, 3) the cost of the option must be a nominal portion of the purchase price. Prior to advertising for bids, the recipient must have obtained all lands, rights-of-way, and easements necessary for carrying out the project. More detailed information regarding real property acquisition follows below.

For the purposes of this manual, "property to be acquired" refers to any kind of permanent interest such as fee simple title, land contracts, permanent easements, long-term leases (50 years or more), and rights-of-way. Temporary easements are also subject to all the same rules as other forms of acquisition unless the temporary easement exclusively benefits the property owner. Subrecipients should also be aware that all methods of acquisition (*e.g.,* purchase, donation, or partial donation) are covered by the URA.

Acquisition rules must be followed whenever:

- The subrecipient undertakes the purchase of property directly;
- The subrecipient hires an agent, private developer, etc. to act on their behalf; and

The subrecipient provides a nonprofit, or for-profit entity organization with funds to purchase a property; or

- The subrecipient provides federal assistance to individuals who are acquiring their own home (i.e., homebuyer assistance program).

<u>Note: Subrecipients must also adhere to environmental review requirements as they relate to acquisition including the requirements regarding options and conditional contracts.</u>

Voluntary and Involuntary Real Property Acquisition

Subrecipients must understand the critical difference between voluntary and involuntary acquisition of real property to ensure compliance with all applicable rules. There are protections for sellers in both voluntary and involuntary acquisitions. The key difference between the two types of acquisition is that when a voluntary sale occurs, **there can be no threat of eminent domain**. Regardless of the form of acquisition used, it is strongly recommended that the subrecipient maintain a log of contacts with the owner in the acquisition file.

Note: The use of federal funds may not be originally anticipated during the conceptual phase or at the beginning of a project. Therefore, subrecipients should proceed with caution if federal resources could be introduced later in the project. Acquisition activities are subject to the URA if there is intent to acquire property for a federal or federally assisted project at any point during the course of a project.

The URA recognizes three general types of purchases as potentially voluntary. Generally, they are:

1. Purchases in which persons are acting on behalf of an agency with the power of eminent domain but the subrecipient or community states in writing that it will not use this power. *Example: The subrecipient has identified parcel (s) for a project but will not use its powers to obtain the property through condemnation. In this case, the subrecipient and/or buyer must inform the seller of this fact in writing and, if the offer is not accepted, be prepared to look for another property as the condemnation process will not be used to acquire the identified parcel.*
2. Purchases where a subrecipient, agency, or person does not have the power of eminent domain. *Example: A nonprofit organization without the power of eminent domain is looking for properties suitable for purchase, rehabilitation, and resale. All their negotiations must be conducted in accordance with the rules for voluntary acquisition.*

3. Purchases of property from government agencies (federal, state, or local) where the subrecipient does not have the power of eminent domain over the other entity. *Example: A nonprofit organization without the power of eminent domain selects a vacant lot that is owned by the Corps of Engineers. The nonprofit organization would never be able to purchase the property if the Corps is not agreeable to their offer.*

Sometimes there is confusion about what is actually considered "voluntary." A common misconception is that "willing seller" or "amicable agreement" means a transaction is "voluntary."

This is not true under URA. The applicable requirement of the regulations at 49 CFR 24.101(b)(1)-(5) must be satisfied for a transaction to be considered voluntary.

Each type of voluntary acquisition, and the URA requirements pertaining to each, is described as follows:

- The public notice, advertisements, and literature should include a description of what the subrecipient intends to purchase, its reasons, and any conditions of which a seller should be aware.
- The voluntary acquisition policy must state that if a mutually satisfactory agreement cannot be reached, the subrecipient will not buy or condemn the property for the same purpose.
- The subrecipient should indicate that owner-occupants are not eligible for relocation benefits in the public notice and the acknowledgment form should be attached to the purchase offer.

While owner-occupants of a property acquired through voluntary acquisition are not eligible for relocation benefits, all tenants in legal occupancy (including non-residential occupants are protected by the URA and are eligible for relocation benefits under the URA.

Voluntary Acquisition by a Subrecipient or Persons Acting on Behalf of a Subrecipient with the Power of Eminent Domain

To be considered a voluntary acquisition by a subrecipient with the power of eminent domain, the property may not be part of a planned or designated project area where substantially all the property in the area will be purchased within a specified time frame.

The search for alternative sites for the project or activity may be limited to one geographic area, but if none of the owners are willing to sell voluntarily, the subrecipient must be prepared to look in another area for a suitable site. Where a subrecipient wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated in an equivalent or like manner.

If a subrecipient determines that a specific site is necessary for a program or activity it is planning to undertake, then the sale cannot be considered voluntary. It is assumed that, if negotiations fail, the subrecipient could ultimately acquire the property through condemnation. Thus, the acquisition is **not** considered voluntary.

Note: Temporary or permanent easements are only very rarely not part of a planned project; therefore, easements are discussed at the beginning of this Section and under Involuntary Acquisitions at the end of this Section.

If someone else, such as a private developer or realtor, is authorized to act on the subrecipient's behalf in negotiating the purchase, and the subrecipient is prepared to intervene and use condemnation if the negotiations are unsuccessful, the acquisition is not considered voluntary.

In order to be voluntary, the subrecipient must meet all the requirements listed below and inform the property owner in writing that:

- Federal funds are involved in the transaction; however, the subrecipient will not use its power of eminent domain if negotiations fail to result in an amicable agreement; and
- The subrecipient estimate of the market value for the property to be acquired as outlined below.

To estimate market value in a voluntary acquisition, subrecipients must follow specific procedures:

- A formal appraisal is not required by the URA in voluntary acquisitions. However, the purchase may involve a private lender requiring an appraisal.
- While an appraisal for voluntary transactions is not required, subrecipients may still decide that an appraisal is necessary to support their determination of market value. Subrecipients must have some reasonable basis for their determination of market value.
- If an appraisal is not obtained, someone with knowledge of the local real estate market must make this determination and document the file.

After a subrecipient has established a market value for the property and has notified the owner of this amount in writing, a subrecipient may negotiate freely with the owner in order to reach an agreement. Since these transactions are voluntary, negotiations may result in an agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount.

Although not required by the regulations, it could be appropriate for subrecipients to apply the URA administrative settlement concept and procedures in the URA regulations to negotiate amounts that exceed the original estimate of market value (if they can demonstrate that the offer was reasonable and necessary to accomplish the project). If subrecipients anticipate they will offer an amount greater than market value, they must submit a request in writing and provide supporting documentation to NCORR for a basis to pay an amount that is more than market value. NCORR must provide approval prior to payment.

Subrecipients cannot take any coercive action in order to reach an agreement on the price to be paid for the property.

Voluntary Acquisition by Organizations without the Power of Eminent Domain (Including Nonprofits and Individuals)

Nonprofit organizations and individual buyers generally do not have the power of eminent domain. Under such circumstances, the requirements for URA are limited. In these types of purchases, the buyer, who could be a private citizen, a developer, or an organization, must inform the seller of three things in writing:

- The buyer does not have the power of eminent domain,
- Federal funds are involved in the acquisition of their real estate, and the owner will not be eligible for relocation benefits, and
- An estimate of the fair market value of the property.

After the buyer/subrecipient has determined the property's market value and has notified the owner of this amount in writing, the buyer/subrecipient may negotiate freely with the owner in order to establish the purchase price.

If the seller refuses to accept the offer, the buyer/subrecipient must look for another property to purchase.

In voluntary transactions, the seller must be notified of the preceding information using Exhibit TBD "*Disclosures to Seller with Voluntary Arm's Length Purchase Offer".* If for any reason, the seller is not informed of these facts prior to the closing, the seller should be immediately informed and allowed to withdraw from the purchase agreement without penalty.

Voluntary Acquisition of Government Property

Acquisition is considered voluntary when the property is owned by a government agency and the buyer does not have the power of eminent domain. Subrecipients and individual buyers do not possess the legal authority to condemn government-owned property.

Property Donations

Voluntary acquisition included donations of real property; however, the owner must be fully informed of his or her rights under the URA, including the right to receive a payment for the property. In addition, the owner must acknowledge his or her URA rights and release the subrecipient, in writing, from its obligation to appraise the property. The subrecipient must retain this acknowledgment in the project file. If needed, NCORR will provide a template for the subrecipients as the "Seller Acknowledgement of Acquisition and Relocation Rights and Benefits under the Uniform Relocation Act".

Involuntary Acquisitions

No CDBG-DR funds may be used to support subrecipients for projects that seek to use the power of eminent domain unless eminent domain is employed for a public use. Any subrecipient considering the involuntary acquisition of property must notify NCORR during the application process and/or prior to contacting property owners for review and approval.

NCORR provides recipients with templates for: Involuntary Preliminary Acquisition Notice, Invitation to Accompany an Appraiser, Written Offer to Purchase, Statement of Basis of Just Compensation, Notice of Intent Not to Acquire, Donation and Appraisal Waiver, and Administrative Settlement.

NCORR rules, Notices of Funding Availability (NOFAs), applicant certifications and/or written agreements for funds subject to the Uniform Act shall refer to federal and state rules, as appropriate.

Subrecipients with eminent domain authority may only utilize this authority to acquire property using NCORR funding after discussion with and approval from NCORR.

FINANCIAL MANAGEMENT

NCORR has in place sufficient financial controls to continuously demonstrate conformity with financial management requirements as shown in 2 CFR 200 and applicable Federal Registers. These requirements include but are not limited to: Financial Management; Advances; Internal Controls; Accuracy of Report Information; program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and Single Audit provisions pursuant to 2 CFR 200 Subpart F (formerly OMB Circular A-133). NCORR's financial management system ensures that NCORR funds are managed with high levels of accountability and transparency.

The Compliance Group ensures that NCORR's Financial Management practices adhere to the following:

- Internal controls are in place and adequate;
- Documentation is available to support accounting record entries;
- Financial reports and statements are complete, current, and reviewed periodically; and
- Audits are conducted in a timely manner and in accordance with applicable standards.

INSURANCE AND PROPERTY MANAGEMENT

For all projects in the Multifamily Development Fund Program, all subrecipients must procure and maintain insurance for the duration of the subrecipient agreement to protect all contract assets from loss due to any cause, such as theft, fraud, and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the subrecipient is responsible for ensuring that:

- The property continues to be used for its intended (and approved) purpose; and
- The recipient keeps track of and takes care of the property.

Applicants must follow and comply with HUD requirements. At a minimum, recipients must comply with the bonding requirements at 2 CFR 200.325, as applicable, and with the requirements of their subrecipient agreement.

Insurance Waiver

NCORR subrecipient agreements require that subrecipients incorporate all necessary terms and conditions into any contract entered into under the subrecipient agreement. The terms and conditions require that any contractor providing services to an NCORR subrecipient must obtain and maintain certain types and amounts of insurance coverage. The terms and conditions also provide that NCORR may waive, decrease, alter or amend these insurance requirements in writing. It is typically the responsibility of NCORR's Chief Financial Officer to approve a waiver or alteration of insurance requirements.

RECORDKEEPING, RETENTION, AND FILE MANAGEMENT

In accordance with HUD regulations, NCORR follows the records retention requirements cited in 2 CFR 200, which includes financial records, supporting documents, statistical records and all other pertinent records. The subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for three (3) years from the time of closeout of HUD's grant to the state or for the period provided in the CDBG regulations at 2 CFR 200.333. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the conclusion of the retention period, then all such records must be retained until completion of the actions and resolution of all issues, or the retention period, whichever occurs later.

Every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project/Case Files.

Administrative Records

These are files and records that apply to the overall administration of the recipient's CDBG-DR activities. They include the following:

- Personnel files;
- Property management files;
- General program files: Files relating to the subrecipient's, or contractor's project information form to the subrecipient, the subrecipient agreement, program policies, and guidelines;
- Correspondence with grantee and reports, etc.; and
- Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts, and other agreements.

Financial Records

These include the chart of accounts, a Manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

Project/Case Files

These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

Reporting

As a recipient of CDBG-DR funds, NCORR has established reporting requirements for all subrecipients and contractors in their respective recipient and contractor agreements and contracts in accordance with 2 CFR 200. The program reviews reporting requirements for stand-alone infrastructure projects at five different intervals, as applicable:

1. At execution of agreements,
2. Monthly,
3. Quarterly,
4. Annually, and
5. As required.

Subrecipients and contractors submit the required documents and reports to the state at the times indicated in the subrecipient and grant and/or contract agreement, and in the format prescribed by the program staff. Deviations from this requirement must be pre-approved by program staff.

NCORR's Multifamily Development Fund Program will review reports for projects that are ongoing according to HUD reporting requirements. At the discretion of the program manager, large projects may instead follow the reporting requirements for stand-alone projects as described above.

Record Retention

Record retention is a program requirement. Records are maintained to document compliance with program requirements and federal, state, and local regulations and to facilitate a review or audit by HUD.

Records are maintained in accordance with Section 2.9.15. The NCORR Records Management Program seeks to ensure that:

- NCORR complies with all requirements concerning records and records management practices under federal and state regulations;
- NCORR has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required; and
- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner.

Access to Records

24 CFR 570.490 Recordkeeping requirements:

> *"(c) Access to records.*
>
> > *(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.*
> > *(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records."*

The availability of records is subject to the exemptions to public disclosure set forth in North Carolina Public Records Law. All Freedom of Information Act (FOIA) requests must be made in writing to NCORR and will be processed in accordance with these procedures.

AUDIT TRAIL

All records defined by the organization as important are captured in the state's System of Record (Salesforce) so they can be appropriately managed. Salesforce contains both subgrantee and project level files, providing immediate tracking and imaging of program documentation, including but not limited to, project selection, development and implementation activities, subrecipient agreements and other agreements, financial management, and citizen participation data, ensuring data security and oversight and creating a clear audit trail of the programs. Salesforce also serves as the system of record for all M/WBE, Section 3 and Labor compliance (Davis-Bacon) report submissions from NCORR recipients and direct contractors.

All applicant data is secured in the state's System of Record for a specified period of time in accordance with the current Record Retention and Disposition Schedule.

Recordkeeping, including scanning, uploading to NCORR's management information system, and filing pertinent program documentation retention policies, provides an electronic record of activities so that documentation is accessible for audit purposes. Auditors and other parties can request, as needed physical, paper copies.

Data security measures are in place to protect non-public personal information. This includes hardware and software data security protocols and contractors having signed non-disclosure agreements. NCORR also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security and passes this requirement onto recipients as well.

Audit Requirements

In accordance with Subpart F of 2 CFR 200, non-federal entities that expend $750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions therein. The Compliance Group is responsible for conducting reviews of these single or program-specific audit reports and for coordinating the issuance of management decisions for audit findings relating to NCORR-provided federal funds.

Conflicts of Interest and Confidentiality

Conflicts of interest between covered persons (*e.g.,* applicants, subrecipients, program administrators, contractors, and program staff) and other parties are strictly prohibited by federal law.

A “covered person” is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or any designated public agencies, or subrecipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

The conflict of interest regulations contained in the contract between the subrecipient and the state prohibit locally elected officials, state staff, subrecipient employees, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with who they have family or business ties, during their tenure or for one year thereafter.

Conflicts of Interest

The program requires all program staff to disclose any relationship with an applicant or contractor. Community Recovery/Infrastructure program staff, recipients, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves, the applicant, or the contractor. For example, a customer representative may not perform work on the project information form of their family. For purposes of this regulation, “family” is defined at 24 CFR 570.489(h).

NCORR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) if NCORR has determined that the subrecipient has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the recipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii).

NCORR considers whether the exception provides a significant cost-benefit or essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is LMI, whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure to grant the exception. In addition, NCORR will take into account conflict of interest prohibitions under state law, including the prohibition against self-benefiting under a public contract (G.S. 14-243) and misuse of nonpublic information for private financial gain (G.S. 14-234.1).

Confidentiality/Privacy

The NCORR Multifamily Development Fund Program is committed to protecting the privacy of all of our individual stakeholders, including the public and those individuals working on the program. The program's policies describe how information is to be handled and protected. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed.

The data collected from applicants for the Multifamily Development Fund Program may contain personal information on individuals that is covered by the Federal Privacy Act of 1974 and North Carolina state laws. These laws provide for confidentiality and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes:

1. Program staff may use personal information throughout the award process to ensure compliance with program requirements, reduce errors and mitigate fraud and abuse.
2. Independent Auditors, when hired by the program to perform a financial or programmatic audit of the program, for use in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements, and state and local law.
3. NCORR may disclose personal information on an applicant to those with official Power of Attorney for the applicant or for whom the applicant has provided written consent to do so.

Organizations assisting the state in executing the CDBG-DR Program must comply with all federal and state law enforcement and auditing requests. This includes, but is not limited to, HUD, FEMA, FBI, and the Office of the Inspector General.

Acronyms and Definitions

100-Year Floodplain - The geographic area defined by FEMA as having one percent (1%) chance of being inundated by a flooding event in any given year.

Affordability Period - To ensure that the CDBG-DR investment in rental properties yields affordable rental housing, NCORR is imposing rent and occupancy requirements over the length of a compliance period, known as the Affordability Period. All NCORR-assisted rental units must be restricted during the Affordability Period for Low- to Moderate-Income (LMI) persons/households.

Applicant – Any individual or entity that submits an application for assistance to a program administered by NCHFA and funded by the NCORR Multifamily Development Fund Program.

Appeal – A written request by an applicant asking for a reversal of a determination that affects the eligibility and/or amount of assistance the applicant may receive from the program.

Area Median Income (AMI) - The median (midpoint) household income for an area adjusted for household size as published and annually updated by the United States Department of Housing and Urban Development (HUD). Once household income is determined, it is compared to HUD's income limit for that household size. Income limits are adjusted annually for all Metropolitan Statistical Areas and Nonmetropolitan Counties. Among the Most Impacted and Distressed (MID) counties designated by HUD for Hurricane Matthew CDBG-DR grant funds, Cumberland, Edgecombe and Wayne are included in Metropolitan Statistical Areas, while Bladen, Columbus, and Robeson are considered Nonmetropolitan Counties.

Base Flood Elevation (BFE) - Base Flood Elevation as determined by the Federal Emergency Management Agency (FEMA) uses the relationship between the BFE and a structure's elevation to determine flood insurance premiums. The Federal Register sets the minimum elevation requirements for homes that will be assisted with CDBG-DR funding and which requires elevation. HUD has determined that structures designed principally for residential use and located in the 100-year floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement must be elevated with the lowest floor, including the basement, at least two (2) feet above the BFE.

Community Development Block Grant – Disaster Recovery (CDBG-DR) – HUD funding allocated to eligible disaster recovery entities via congressional appropriations.

Davis-Bacon Act of 1931 (40 U.S.C. 3141, et seq.) and Related Acts – Federal law that requires that all laborers and mechanics employed by contractors or subcontractors in the performance of work financed in whole or in part with federal assistance shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to rehabilitation, reconstruction, and new construction of residential property only if such property contains not less than eight (8) units.

Demolition – The planned razing, or tearing down, of properties acquired under the program. Demolition will be followed by clearance and safe disposal of the remnants of the former structure.

Developer – Developer is defined by HUD as "[a] for-profit or private nonprofit individual or entity that the grantee provides HUD assistance for the purpose of (1) acquiring homes and residential properties to rehabilitate for use or resale for residential purposes and (2) constructing new housing in connection with redevelopment of demolished or vacant properties."

Disability - For the purposes of the program, "disability" is consistent with federal law under the Social Security Act, as amended, 42 U.S.C. 423(d), The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12102(1)-(3), and in accordance with HUD regulations at 24 CFR 5.403 and 891.505.

Duplication of Benefits (DOB) - Provision of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) that prohibits any person, business concern, or other entity from receiving financial assistance from federal disaster funds with respect to any part of a loss resulting from a major disaster as to which that person or entity has already received financial assistance under any other program, insurance or another source.

Environmental Review Record – A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents. All qualified projects must undergo an Environmental Review process. This process ensures that the activities comply with the National Environmental Policy Act (NEPA) and other applicable state and federal laws.

Family - A household composed of two or more related persons. The term "family" also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being.

Fair Housing Act - The Fair Housing Act of 1968, 42 U.S.C. 3601-3619, prohibiting discrimination against protected classes of people in the sale or rental of housing, in the provision of housing assistance, or other housing-related activities. The FHA obligates HUD grantees and their subrecipients to take reasonable steps to ensure meaningful access to their programs and activities for protected classes. The FHA also requires HUD and its program participants to affirmatively further the purposes of the FHA.

Federal Emergency Management Agency (FEMA) - The Federal Emergency Management Agency (FEMA) is an agency of the United States Department of Homeland Security. It was created by Presidential Order on 1 April 1979. The primary purpose of FEMA is to **coordinate the response to a disaster** that has occurred in the United States and that overwhelms the resources of local and state authorities.

Federal Register - The official journal of the federal government of the United States that contains government agency rules, proposed rules, and public notices. It is published daily, except on federal holidays. A Federal Register Notice (FRN) is issued for each CDBG-DR funded disaster. The FRN outlines the rules that apply to each allocation of disaster funding.

FEMA-Designated High-Risk Area - Areas designated by FEMA as vulnerable to significant wind and/or storm-surge damage and areas located in the 100-year flood zones. Properties located in these areas will be identified during the Environmental Review process.

Flood Hazard Area - Areas designated by FEMA as having a risk of flooding.

Flood Insurance - The Flood Disaster Protection Act of 1973, 42 U.S.C. 4012(a), requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Area (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community where the property is located must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used.

Floodplain - FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

Grantee – Any jurisdiction receiving a direct award of funding from HUD.

Green Building Standards - All construction-related activity that meets the definition of substantial improvement, reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multifamily High-Rise), (2) LEED (New Construction, Homes, Midrise, Existing Buildings Operations, and Maintenance, or Neighborhood Development), (3) ICC-700-2020 National Green Building Standard.

Household - A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other.

Household Income - The anticipated gross amount of income from all sources for all adult household members during the upcoming twelve (12) month period in accordance with the definition of annual (gross) income at 24 CFR Part 5.

HUD - United States Department of Housing and Urban Development.

Limited English Proficiency (LEP) - A designation for persons who are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person benefits from an interpreter who translates to and from the person's primary language. An LEP person may also need documents written in English translated into their primary language so that they can understand important documents related to health and human services.

Low-to-Moderate-Income (LMI) National Objective - One of three national objectives that any CDBG activity must meet. Activities that meet the LMI objective must benefit households whose total annual gross income does not exceed 120% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with HUD Guidance. The most current income limits, published annually by HUD, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

- **Extremely Low**: Household's annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size.
- **Very Low**: Household's annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size.
- **Low**: Household's annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.
- **Moderate**: Household's annual income is between 81% and 120% of the area median family income, as determined by HUD, adjusted for family size.

Low Income Housing Tax Credits (LIHTC) – The LIHTC Program is an indirect federal subsidy used to finance the development of affordable rental housing for low-income households.

Metropolitan Statistical Area – An area with at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

National Environmental Policy Act (NEPA) – Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government consider the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP) – The National Flood Insurance Program (NFIP) is managed by the Federal Emergency Management Agency and is delivered to the public by a network of approximately 60 insurance companies and the NFIP Direct. The NFIP provides flood insurance to property owners, renters and businesses.

National Objective – A HUD criterion governing eligible uses of CDBG-DR funds.

Notice of Funding Availability (NOFA) – A notice describing the type and amount of funding available on a competitive basis that provides information regarding how to apply, when to apply, and where to submit requests for funding.

Partner – Various entities will be responsible for implementing program activities. The term Partner is used throughout to denote the relationship between NCORR and entities like subrecipients and developers.

Request for Proposal (RFP) – A document that announces and provides details about a project and solicits bids from contractors who will help to complete the project.

Special Flood Hazard Area (SFHA) –An **area** identified by the United States Federal Emergency Management Agency (FEMA) as an **area** with a **special flood** or mudflow, and/or **flood** related erosion **hazard**, as shown on a **flood hazard** boundary map or **flood** insurance rate map.

Subrecipient – In the Multifamily Development Fund Program, a non-federal entity that receives Hurricane Matthew CDBG-DR funding from NCORR to carry out recovery activities; but does not include an individual or entity that is a beneficiary of the program.

Subrogation – The process by which duplicative assistance paid to the Partner after receiving award are remitted to the program to rectify a duplication of benefits.

Uniform Relocation Act (URA) – A federal law that applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted programs or projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

U.S. Department of Housing and Urban Development (HUD) – Federal department through which program funds are distributed to grantees.

Appendix A: The 2019 Low-Income Housing Tax Credit Qualified Allocation Plan for the State of North Carolina

I. INTRODUCTION

The 2019 Qualified Allocation Plan (the Plan) has been developed by the North Carolina Housing Finance Agency (the Agency) as administrative agent for the North Carolina Federal Tax Reform Allocation Committee (the Committee) in compliance with Section 42 of the Internal Revenue Code of 1986, as amended (the Code). For purposes of the Plan, the term "Agency" shall mean the Agency acting on behalf of the Committee, unless otherwise provided.

The Plan was reviewed in one public hearing and met the other legal requirements prior to final adoption by the Committee. The staff of the Agency was present at the hearing to take comments and answer questions.

The Agency will only allocate low-income housing tax credits in compliance with the Plan. The Code requires the Plan contain certain elements. These elements, and others added by the Committee, are listed below.

A. Selection criteria to be used in determining the allocation of tax credits:
   - Project location and site suitability.
   - Market demand and local housing needs.
   - Serving the lowest income tenants.
   - Serving qualified tenants for the longest periods.
   - Design and quality of construction.
   - Financial structure and long-term viability.
   - Use of federal project-based rental assistance.
   - Use of mortgage subsidies.
   - Experience of development team and management agent(s).
   - Serving persons with disabilities and persons who are homeless.
   - Willingness to solicit referrals from public housing waiting lists.
   - Tenant populations of individuals with children.
   - Projects intended for eventual tenant ownership.
   - Projects that are part of a community redevelopment effort.
   - Energy efficiency.
   - Historic nature of the buildings.

B. Threshold, underwriting and process requirements.

C. Description of the Agency's compliance monitoring program, including procedures to notify the Internal Revenue Service of noncompliance with the requirements of the program.

In the process of administering the tax credit, Rental Production Program (RPP) and Workforce Housing Loan Program (WHLP), the Agency will make decisions and interpretations regarding project applications and the Plan. RPP and WHLP are state investments dedicated to making rental developments financially feasible and more affordable for working families and seniors. Unless otherwise stated, the Agency is entitled to the full discretion allowed by law in making all such decisions and interpretations. The Agency reserves the right to amend, modify, or withdraw provisions contained in the Plan that are inconsistent or in conflict with state or federal laws or regulations. In the event of a major:

- natural disaster,
- disruption in the financial markets, or
- reduction in subsidy resources available, including tax credits, RPP and WHLP funding, the Agency may disregard any section of the Plan, including point scoring and evaluation criteria, that interferes with an appropriate response.

II. SET-ASIDES, AWARD LIMITATIONS AND COUNTY DESIGNATIONS

The Agency will determine whether applications are eligible under Section II(A) or II(B). This Section II only applies to 9% Tax Credit applications.

A. REHABILITATION SET-ASIDE

The Agency will award up to ten percent (10%) of tax credits available after forward commitments to projects proposing rehabilitation of existing housing. The Agency may exceed this limitation to completely fund a project request. In the event eligible requests exceed the amount available, the Agency will determine awards based on the evaluation criteria in Section IV(H)(3). The maximum award under this set-aside to any one Principal will be one project. The following will be considered new construction under Section II(B) below:

- adaptive re-use projects,
- entirely vacant residential buildings,
- proposals to increase and/or substantially re-configure residential units.

B. NEW CONSTRUCTION SET-ASIDES

1. GEOGRAPHIC REGIONS

The Agency will award tax credits remaining after awards described above to new construction projects, starting with those earning the highest scoring totals within each of the following four geographic set-asides and continuing in descending score order through the last project that can be fully funded. The Agency reserves the right to revise the available credits in each set-aside to award the next highest scoring application statewide under Section II(G)(1).

West 16%		Central 24%		Metro 37%	East 23%	
Alexander	Lincoln	Alamance	Moore	Buncombe	Beaufort	Jones
Alleghany	Macon	Anson	Orange	Cumberland	Bertie	Lenoir
Ashe	Madison	Cabarrus	Person	Durham	Bladen	Martin
Avery	McDowell	Caswell	Randolph	Forsyth	Brunswick	Nash
Burke	Mitchell	Chatham	Richmond	Guilford	Camden	New Hanover
Caldwell	Polk	Davidson	Rockingham	Mecklenburg	Carteret	Northampton
Catawba	Rutherford	Davie	Rowan	Wake	Chowan	Onslow
Cherokee	Surry	Franklin	Scotland		Columbus	Pamlico
Clay	Swain	Granville	Stanly		Craven	Pasquotank
Cleveland	Transylvania	Harnett	Stokes		Currituck	Pender
Gaston	Watauga	Hoke	Union		Dare	Perquimans
Graham	Wilkes	Iredell	Vance		Duplin	Pitt
Haywood	Yadkin	Lee	Warren		Edgecombe	Robeson
Henderson	Yancey	Montgomery			Gates	Sampson
Jackson					Greene	Tyrrell
					Halifax	Washington
					Hertford	Wayne
					Hyde	Wilson
					Johnston	

2. REDEVELOPMENT PROJECTS

(a) If necessary, the Agency will adjust the awards under the Plan to ensure the overall allocation results in awards for two (2) Redevelopment Projects. Specifically, tax credits that would have been awarded to the lowest ranking project(s) that do(es) not meet the criteria below will be awarded to the next highest ranking Redevelopment Project(s). The Agency may make such adjustment(s) in any geographic set-aside.

(b) The following are required to qualify as a Redevelopment Project:

(i) The site currently contains or contained at least one structure used for commercial, residential, educational, or governmental purposes.

(ii) The application proposes adaptive re-use with historic rehabilitation credits and/or new construction.

(iii) Any required demolition has been completed or is scheduled for completion in 2019 (not including the project buildings).

(iv) A unit of local government initiated the project and has invested community development resources in the Half Mile area within the last ten years.

(v) As of the preliminary application deadline, a unit of local government formally adopted a plan to address the deterioration (if any) in the Half Mile area and approved one or more of the following for the project:

- donation of at least one parcel of land,
- waiver of impact, tap, or related fees normally charged,
- commitment to lend/grant at least $750,000 in the Metro region and $250,000 in the East, Central or West of its housing development funds (net of any amount paid to the unit of government) as a source of permanent funding, or
- is part of the Rental Assistance Demonstration (RAD) program under the U.S. Department of Housing and Urban Development (HUD).

The Agency will require official documentation of each element of local government participation.

3. DISASTER RECOVERY

(a) Additional Tax Credits

Twelve point five percent (12.5%) of tax credits available will be added to the East region before the Rehabilitation Set-Aside and before any allocations under the New Construction Set-Aside.

(b) County Award Limits

Should each county with an eligible application in the East or Central region receive one new construction award and credits remain in the respective region, counties declared a federal disaster area (Individual Assistance designation) under Hurricane Florence are eligible to receive a second new construction award.

If necessary, the Agency will adjust the awards under the Plan to ensure the overall allocation results in no less than one award for Cumberland County in the Metro region. The initial maximum under II(F)(b) will not apply to Cumberland County should that county be eligible for a second new construction award.

(c) Disaster Recovery Funds

New construction applications receiving an allocation of 9% tax credits in counties declared federal disaster areas (Individual Assistance designation) under Hurricane Florence are eligible for Disaster Recovery funds. Loan amounts will be determined by the Agency and used to reduce tax credit and/or

WHLP requests. The terms will be zero percent (0%) interest, twenty year balloon (no payments unless requesting RPP funds).

C. USDA RURAL DEVELOPMENT

Up to $750,000 will be awarded to eligible rehabilitation and/or new construction project(s) identified by the U.S. Department of Agriculture, Rural Development (RD) state office as a priority. These projects will count towards the applicable set-asides and limits. The maximum award under this set-aside to any one Principal will be one project. Other RD applications will be considered under the applicable setasides.

D. NONPROFIT AND CHDO SET-ASIDES AND LIMITS AND NATIONAL HOUSING TRUST FUND

1. SET-ASIDES AND NATIONAL HOUSING TRUST FUND

If necessary, the Agency will adjust the awards under the Plan to ensure that the overall allocation results in:

- ten percent (10%) of the state’s federal tax credit ceiling being awarded to projects involving tax exempt organizations (nonprofits),
- fifteen percent (15%) of the Agency’s HOME funds being awarded to projects involving Community Housing Development Organizations certified by the Agency (CHDOs) and all funds available from the National Housing Trust Fund have been awarded.

Specifically, tax credits that would have been awarded to the lowest ranking project(s) that do(es) not fall into one of these categories will be awarded to the next highest ranking project(s) that do(es) until the overall allocation(s) reach(es) the necessary percentage(s). The Agency may make such adjustment(s) in any set-aside.

(a) Nonprofit Set-Aside

To qualify as a nonprofit application, the project must either:

- not involve any for-profit Principals or
- comply with the material participation requirements of the Code, applicable federal regulations and Section VI(A)(2).

(b) CHDO Set-Aside

To qualify as a CHDO application,

- the project must meet the requirements of subsection (D)(1)(a) above and 24 CFR 92.300(a)(1),
- the Applicant, any Principal, or any affiliate must not undertake any choice-limiting activity prior to successful completion of the U.S. Department of Housing and Urban Development (HUD) environmental clearance review, and
- the project and owner must comply with regulations regarding the federal CHDO set-aside.

The Agency may determine the requirements of the federal CHDO set-aside have been or will be met without implementing subsection (D)(1)(b).

(c) National Housing Trust Fund

To qualify for the National Housing Trust Fund, the project must:

- be located in a High Income county as designated in Section II(F)(2) and
- commit at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of area median income. See **Appendix J** for additional information.

2. LIMITS

No more than twenty percent (20%) of the overall allocation will be awarded to projects where a nonprofit organization (or its qualified corporation) is the Applicant under Section III(C)(6). New construction awards will be counted towards this limitation first (in score order), then rehabilitation awards.

E. PRINCIPAL AND PROJECT AWARD LIMITS

1. PRINCIPAL LIMITS

(a) The maximum awards to any one Principal will be a total of $1,800,000 in tax credits, including all set-asides. New construction awards will be counted towards this limitation first (in score order), then rehabilitation awards.

(b) The Agency may further limit awards based on unforeseen circumstances.

(c) For purposes of the maximum allowed in this subsection (E)(1), the Agency may determine that a person or entity not included in an application is a Principal for the project. Such determination would include consideration of relationships between the parties in previously awarded projects and other common interests. Standard fee for service contract relationships (such as accountants or attorneys) will not be considered.

2. PROJECT LIMIT

The maximum award to any one project will be $1,000,000.

3. AGENCY-DESIGNATED BASIS BOOST

The Agency can boost the eligible basis of new construction projects committing to the targeting in Section IV(B)(2) by up to ten percent (10%). Projects using the DDA or QCT basis increase are not eligible under this section.

F. COUNTY AWARD LIMITS AND INCOME DESIGNATIONS

1. AWARD LIMITS

(a) Rehabilitation and East, Central, and West Regions

No county will be awarded more than one project under the rehabilitation set-aside. No county will be awarded more than one project under the new construction set aside except as specified under Section II(B)(3)(b).

(b) Metro Region

The initial maximum award(s) for a county will be its percent share of the Metro region based on population (see **Appendix K**), unless exceeding this amount is necessary to complete a project request. If any tax credits remain, the Agency will make awards to the next highest scoring application(s). A county may receive one additional award, even if in excess of its share. See Section II(B)(3)(b) for Cumberland County exception.

2. INCOME DESIGNATIONS

The Agency is responsible for designating each county as High, Moderate or Low Income. The criteria used in making this determination was HUD’s FY 2018 Median Family Income.

High		Moderate		Low	
Buncombe	Gaston	Alamance	Nash	Alleghany	Macon
Brunswick	Guilford	Alexander	Onslow	Anson	Martin
Cabarrus	Iredell	Beaufort	Pamlico	Ashe	McDowell
Camden	Johnston	Burke	Pasquotank	Avery	Mitchell
Carteret	Lincoln	Caldwell	Pender	Bertie	Montgomery
Chatham	Mecklenburg	Catawba	Person	Bladen	Northampton
Craven	Moore	Cumberland	Pitt	Caswell	Perquimans
Currituck	New Hanover	Davie	Polk	Cherokee	Richmond
Dare	Orange	Davidson	Randolph	Chowan	Robeson
Durham	Union	Edgecombe	Rockingham	Clay	Rutherford
Forsyth	Wake	Gates	Rowan	Cleveland	Sampson
Franklin	Watauga	Granville	Stanly	Columbus	Scotland
		Harnett	Stokes	Duplin	Swain
		Haywood	Surry	Graham	Tyrrell
		Henderson	Transylvania	Greene	Vance
		Hoke	Wayne	Halifax	Warren
		Jackson	Wilson	Hertford	Washington
		Lee	Yadkin	Hyde	Wilkes
		Madison		Jones	Yancey
				Lenoir	

G. OTHER AWARDS AND RETURNED ALLOCATIONS

1. The Agency may award tax credits remaining from the geographic set-asides to the next highest scoring eligible new construction application(s) in the East, Central, and West regions and/or one or more eligible rehabilitation applications. The Agency may also carry forward any amount of tax credits to the next year.

2. An owner returning a valid allocation of 2016 tax credits between October 1, 2018 and December 31, 2018 will receive an allocation of the same amount of 2019 tax credits if:

- the project has obtained a building permit and closed its construction loan,
- the owner pays a fee equal to the original allocation fee amount upon the return, and
- the project's design is the same as approved at full application (other than changes approved by the Agency).

None of the Principals for the returned project may be part of a 2019 application.

3. The Agency may make a forward commitment of the next year's tax credits in an amount necessary to fully fund project(s) with a partial award or to any project application that was submitted in a prior year if such application meets all the minimum requirements of the Plan. In the event that credits are returned or the state receives credits from the national pool, the Agency may elect to carry such credits forward, make an award to any project application (subject only to the nonprofit set aside), or a combination of both.

III. DEADLINES, APPLICATION AND FEES

A. APPLICATION AND AWARD SCHEDULE

The following schedule will apply to the 2019 application process for 9% Tax Credits and the first round of tax-exempt bond volume and 4% Tax Credits.

January 18	Deadline for submission of preliminary applications (12:00 noon)
March 11	Market analysts will submit studies to the Agency and Applicants
March 22	Notification of final site scores
April 1	Deadline for market-related project revisions (5:00 p.m.)
April 8	Deadline for the Agency and Applicant to receive the revised market study, if applicable
May 10	Deadline for full applications (12:00 noon)
August	Notification of tax credit awards

The Agency will also accept bond volume and 4% Tax Credit applications any time between May 1 and October 1. When a preliminary application has been submitted in this timeframe, a schedule of milestones will be provided to the Applicant. The preliminary application submission date will determine when those milestones occur which will follow a time frame similar to the 9% Tax Credit round. The Agency will work with the Applicant to determine if the project will receive 2019 or 2020 volume cap. Full applications can be submitted no later than January 17, 2020.

The Agency reserves the right to change the schedule to accommodate unforeseen circumstances.

B. APPLICATION, ALLOCATION, MONITORING, AND PENALTY FEES

1. All Applicants are required to pay a nonrefundable fee of $5,760 at the submission of the preliminary application. This fee covers the cost of the market study or physical needs assessment and a $1,360 preliminary application processing fee (which will be assessed for every electronic application submitted). The Agency may charge additional fee(s) to cover the cost of direct contracting with other providers (such as appraisers).

2. All Applicants are required to pay a nonrefundable processing fee of $1,360 upon submission of the full application.

3. Entities receiving tax credit awards, including those involving tax-exempt bond volume, are required to pay a nonrefundable allocation fee equal to 0.82% of the project's total qualified basis.

4. The allocation fee will be due at the time of either the carryover allocation or bond volume award. Failure to return the required documentation and fee by the date specified may result in cancellation of the allocation. The Agency may assess other fees for additional monitoring responsibilities.

5. Owners must pay a monitoring fee of $900 per unit (includes all units, qualified, unrestricted, and employee) prior to issuance of the project's IRS Form 8609. Any project utilizing income averaging or for which the Agency is the bond issuer must pay an additional monitoring fee of $300 per unit.

6. If expenses for legal services are incurred by the Committee or Agency to correct mistakes of the owner which jeopardize use of the tax credits, such legal costs will be paid by the owner in the amount charged to the Committee or Agency.

7. The Agency may assess Applicants or owners a fee of up to $2,000 for each instance of failure to comply with a written requirement, whether or not such requirement is in the Plan. The Agency will not process applications or other documentation relating to any Principal who has an outstanding balance of fees owed; such a delay in processing may result in disqualification of application(s).

8. The Agency will assess $1,500 for a Workforce Housing Loan Program closing and $2,000 for an RPP closing.

C. APPLICATION PROCESS AND REQUIREMENTS

1. The Agency may require Applicants to submit any information, letter, or representation relating to Plan requirements or point scoring as part of the application process.

2. Any failure to comply with an Agency request under subsection (C)(1) above or any misrepresentation, false information or omission in any application document may result in disqualification of that application and any other involving the same owner(s), Principal(s), consultant(s) and/or application preparer(s). Any misrepresentation, false information or omission in the application document may also result in a revocation of a tax credit allocation.

3. Only one application can be submitted per site (new construction or rehabilitation).

4. The Agency may elect to treat applications involving more than one site, population type (family/elderly) or activity (new/rehabilitation) as separate for purposes of the Agency's application process. Each application would require a separate initial application fee. The Agency may allow such applications to be considered as one for the full application underwriting if all sites are secured by one permanent mortgage and are not intended for separation and sale after the tax credit allocation.

5. The Agency will notify the appropriate unit of government about the project after submission of the full application.

6. For each application one individual or validly existing entity must be identified as the Applicant and execute the preliminary and full applications. An entity may be one of the following:

(a) corporation, including nonprofits,

(b) limited partnership, or

(c) limited liability company.

Only the identified Applicant will have the ability to make decisions with regard to that application and be considered under Section IV(D)(1). The Applicant may enter into joint venture or other agreements but the Agency will not be responsible for evaluating those documents to determine the relative rights of the parties. If the application receives an award the Applicant must become a managing member or general partner of the ownership entity.

IV. SELECTION CRITERIA AND THRESHOLD REQUIREMENTS

Applications must meet all applicable threshold requirements to be considered for award and funding. Scoring and threshold determinations made in prior years are not binding on the Agency for the 2019 cycle.

A. SITE AND MARKET EVALUATION

The Agency will not accept a full application where the preliminary application does not meet all site and market threshold requirements.

1. SITE EVALUATION (MAXIMUM 60 POINTS)

(a) General Site Requirements:

(i) Sites must be sized to accommodate the number and type of units proposed. The Applicant or a Principal must have site control by the preliminary application deadline as evidenced by an option, contract or deed. The documentation of site control must include a plot plan.

(ii) Required zoning must be in place by the full application deadline, including special/conditional use permits, and any other discretionary land use approval required (includes all legislative or quasi-judicial decisions).

(iii) Water and sewer must be available with adequate capacity to serve the site. Sites should be accessed directly by existing paved, publicly maintained roads. If not, it will be the owner's responsibility to extend utilities and roads to the site. In such cases, the Applicant must explain and budget for such plans and document the right to perform such work.

(iv) To be eligible for RPP funds, the preliminary application must contain the Agency's "Notice of Real Property Acquisition" form. The form must be executed by all parties before or at the same time as the option or contract.

(b) Criteria for Site Score Evaluation:

Site scores will be based on the following factors. Each will also serve as a threshold requirement; the Agency may remove an application from consideration if the site is sufficiently inadequate in one of the categories. An application must have a minimum total score of 45 points.

(i) NEIGHBORHOOD CHARACTERISTICS (MAXIMUM 10 POINTS)

Good: 10 points if structures within a Half Mile are well maintained or the site qualifies as a Redevelopment Project (see Section II(B)(2)(b))

Fair: 5 points if structures within a Half Mile are not well maintained and there are visible signs of deterioration

Poor: 0 points if structures within a Half Mile are Blighted or have physical security modifications (e.g. barbed wire fencing or bars on windows)

Half Mile: The half mile radius from the approximate center of the site (does not apply to Amenities below).

Blighted: A structure that is abandoned, deteriorated substantially beyond normal wear and tear, a public nuisance, or appears to violate minimum health and safety standards.

(ii) AMENITIES (MAXIMUM 38 POINTS)

Other than applications with tribally-appropriated funds or near bus/transit stops (described at the end of this subsection), points will be determined according to the matrix below. For an amenity to be eligible for points, the application must include documentation required by the Agency of meeting the applicable criteria. In all cases the establishment must be open to the general public and operating with no announced closing as of the preliminary application deadline.

	Driving Distance in Miles			
Primary Amenities				
(maximum 26 points)	≤ 1	≤ 1.5	≤ 2	≤ 3
Grocery	12pts.	10 pts.	8 pts.	6 pts.
Shopping	7 pts.	6 pts.	5 pts.	4 pts.
Pharmacy	7 pts.	6 pts.	5 pts.	4 pts.
Secondary Amenities				
(maximum 12 points)	≤ 1	≤ 1.5	≤ 2	≤ 3
Other Primary Amenity	5 pts.	4 pts.	3 pts.	2 pts.
Service	3 pts.	2 pts.	1 pt.	0 pts.
Healthcare	3 pts.	2 pts.	1 pt.	0 pts.
Public Facility	3 pts.	2 pts.	1 pt.	0 pts.
Public School (Family)	3 pts.	2 pts.	1 pt.	0 pts.

Senior Center (Elderly)	3 pts.	2 pts.	1 pt.	0 pts.
Retail	3 pts.	2 pts.	1 pt.	0 pts.

Driving Distance in Miles, Small Town*

Primary Amenities (maximum 26 points)	≤ 2	≤ 2.5	≤ 3	≤ 4
Grocery	12 pts.	10 pts.	8 pts.	6 pts.
Shopping	7 pts.	6 pts.	5 pts.	4 pts.
Pharmacy	7 pts.	6 pts.	5 pts.	4 pts.

Secondary Amenities (maximum 12 points)	≤ 2	≤ 2.5	≤ 3	≤ 4
Other Primary Amenity	5 pts.	4 pts.	3 pts.	2 pts.
Service	3 pts.	2 pts.	1 pt.	0 pts.
Healthcare	3 pts.	2 pts.	1 pt.	0 pts.
Public Facility	3 pts.	2 pts.	1 pt.	0 pts.
Public School (Family)	3 pts.	2 pts.	1 pt.	0 pts.
Senior Center (Elderly)	3 pts.	2 pts.	1 pt.	0 pts.
Retail	3 pts.	2 pts.	1 pt.	0 pts.

* A Small Town is a municipality with a population of less than 10,000 people. The list of town sizes can be found on the Office of State Budget and Management web site at https://www.osbm.nc.gov/demog/municipal-population-estimates. The Certified 2017 Population Estimates, Municipal Estimates – Alphabetically by municipality will be used to determine a town's population. A site is not required to be within the town limits to qualify but must have an address of a Small Town. Any application in an unincorporated town not appearing on the Small Town list but recognized as a community must have Agency approval to be considered a Small Town prior to the preliminary application deadline.

Only one establishment will count for each row under Primary and Secondary Amenities. For example, an application for a site with a public park, library, and community center all between one mile and one and a half miles will receive only 2 points under Public Facility.

The driving distance will be the mileage as calculated by Google Maps and must be a drivable route as of the preliminary application deadline. The drivable route must be shown in map format (written directions optional). A photo of each amenity must also be provided.
The measurement will be:

- the point closest to the site entrance to or from
- the point closest to the amenity entrance.

Driveways, access easements, and other distances in excess of 500 feet between the nearest residential building of the proposed project and road shown on Google Maps will be included in the driving distance. For scattered site projects, the measurement will be from the location with the longest driving distance(s).

The following establishments qualify as a Grocery:

Aldi	Food Matters Market	Just $ave	Save-A-Lot
Bi-Lo	Fresh Air Galaxy Food Centers	Kroger	Sprouts

Bo’s Food Stores	The Fresh Market	Lidl	Super Target
Compare Foods	Harris Teeter	Lowes Foods	Trader Joe’s
Earth Fare	Harveys	Piggly Wiggly	Walmart Neighborhood Market
Fairvalue	Hopey & Company	Publix	Walmart Supercenter
Family Foods	IGA	Red & White	Weaver Street Market
Food Lion	Ingle’s Market	Sav-Mor	Whole Foods

The following establishments qualify as Shopping:

Big Lots	Kmart	Target
Dollar General	Maxway	Super Target
Dollar Tree	Ollie’s Bargain Outlet	Walmart
Family Dollar	Roses	Walmart Supercenter
Fred’s Super Dollar	Roses Express	

To qualify as a Pharmacy, the establishment must have non-medical general merchandise items for sale (not including pharmacies within hospitals).

To qualify as a Secondary Amenity, the establishment must meet the applicable requirement(s) below.

Other Primary Amenity: second Grocery, Shopping or Pharmacy (not used as Primary Amenity)

Service: restaurant, bank/credit union, or gas station with convenience store

Healthcare: hospital, urgent care business, general/family practice, or general dentist (not to include orthodontist); does not include medical specialists or clinics within pharmacies

Public Facility (any of the following):

- community center with scheduled activities operated by a local government
- public park owned and maintained by a local government containing, at a minimum, playground equipment and/or walking/bike trails and listed on a map, website, or other official means
- library operated by a local government open at least five days a week

Public School: non-alternative elementary, middle or high school (family properties only)

Senior Center: with scheduled activities operated by a local government (elderly properties only)

Retail: any Grocery or Shopping not listed as a Primary or Other Primary Amenity; any strip shopping center with a minimum of 4 operating establishments; any grocery or general merchandise establishment

A commitment of at least $250,000 in tribally-appropriated funds (including through the Native American Housing Assistance and Self Determination Act) qualifies for 6 points, not to exceed the total for subsection (ii). The commitment must meet the requirements of Section VI(B)(6)(b) and be submitted as part of the preliminary application.

A bus/transit stop qualifies for 6 points, not to exceed the total for subsection (ii), if it is:

- in service as of the preliminary application date,

- at a fixed location and has a covered waiting area,
- served by a public transportation system six days a week, including for 12 consecutive hours on weekdays, and
- within 0.25 miles walking distance of the proposed project site entrance using existing continuous sidewalks (excluding the proposed project site) and crosswalks.

A bus/transit stop qualifies for 2 points, not to exceed the total for subsection (ii), if all of the above criteria are met except for a covered waiting area.

(iii) SITE SUITABILITY (MAXIMUM 12 POINTS)

3 points if there is no Incompatible Use, which includes the following activities, conditions, or uses within the distance ranges specified:

Half Mile

- airports
- chemical or hazardous materials storage/disposal
- industrial or agricultural activities with environmental concerns (such as odors or pollution)
- commercial junk or salvage yards
- landfills currently in operation
- sources of excessive noise
- wastewater treatment facilities

A parcel or right of way within 500 feet containing any of the following:

- adult entertainment establishment
- distribution facility
- factory or similar operation
- jail or prison
- large swamp

Any of the following within 250 feet of a proposed project building:

- electrical utility substation, whether active or not
- frequently used railroad tracks (except within 0.25 miles of an approved light rail passenger stop)
- high traffic corridor
- power transmission lines and tower

3 points if there are no negative features, design challenges, physical barriers, or other unusual and problematic circumstances that would impede project construction or adversely affect future tenants, including but not limited to: power transmission lines and towers, flood hazards, steep slopes, large boulders, ravines, year-round streams, wetlands, and other similar features (for adaptive re-use projects: suitability for residential use and difficulties posed by the building(s), such as limited parking, environmental problems or the need for excessive demolition)

3 points if the project would be visible to potential tenants using normal travel patterns and is within 500 feet of a building that is currently in use for residential, commercial, educational, or governmental purposes (excluding Blighted structures or Incompatible Uses)

3 points if traffic controls allow for safe access to the site; for example limited sight distance (blind curve) or having to cross three or more lanes of traffic going the same direction when exiting the site would not receive points.

(iv) SITE NEGATIVE POINTS (NEGATIVE 3 POINTS)

Up to 3 points will be deducted from a site deemed to be unsuitable for housing. This determination recognizes a site may meet all site evaluation scoring criteria but not be suitable for housing regardless of having required zoning or local government support.

2. MARKET ANALYSIS

The Agency will administer the market study process based on this Section and the terms of **Appendix A** (incorporated herein by reference).

(a) The Agency will contract directly with market analysts to perform studies. Applicants may interact with market analysts and will have an opportunity to revise their project (unit mix, targeting). Any revisions must be submitted in writing to both the market analyst and to the Agency, following the schedule in Section III(A), and will be binding on the Applicant for the full application.

(b) The Agency will limit the number of projects awarded in the same application round to those that it determines can be supported in the market.

(c) The following four criteria are threshold requirements for new construction applications:

(i) the project's capture rate,

(ii) the project's absorption rate,

(iii) the vacancy rate at comparable properties (what qualifies as a comparable will vary based on the circumstances), and

(iv) the project's effect on existing or awarded properties with 9% Tax Credits or Agency loans.

(d) Applicants may not increase rents nor the total number of units after submission of the preliminary application. After the deadline for completing market-related project revisions Applicants may not increase:

(i) rents, irrespective of a decrease in utility allowances, (ii) the number of income targeted units in any bedroom type, or (iii) the number of units in any bedroom type.

(e) The Agency is not bound by the conclusions or recommendations of the market analyst(s), and will use its discretion in evaluating the criteria listed in this subsection (A)(2).

(f) Projects may not give preferences to potential tenants based on:

(i) residing in the jurisdiction of a particular local government,

(ii) having a particular disability, or

(iii) being part of a specific occupational group (e.g. artists).

(g) Age-restricted (elderly) projects may not contain three or more bedroom units.

(h) No project can have more than four (4) income bands consisting of: 20%, 30%, 40%, 50%, 60%, 70%, 80% of area median income, and market rate.

B. RENT AFFORDABILITY

1. FEDERAL RENTAL ASSISTANCE

Applicants proposing to convert tenant-based Housing Choice Vouchers (Section 8) to a project based subsidy (pursuant to 24 CFR Part 983) must submit a letter from the issuing authority in a form approved by the Agency. Conversion of vouchers will be treated similar to a funding source under Section VI(B)(6)(e); a project will be ineligible for an allocation if it does not meet requirements set by the Agency as part of the application and award process. Such requirements may involve the public housing authority's (PHA's) Annual Plan, selection policy, and approval for advertising.

2. TENANT RENT LEVELS AND RPP (MAXIMUM 2 POINTS)

An application may earn points under one of the following scenarios:

(a) If the project is in a High Income county:

- 2 points will be awarded if at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of area median income.
- 1 point will be awarded if at least fifteen percent (15%) of qualified low-income units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of area median income.

(b) If the project is in a Moderate Income county:

- 2 points will be awarded if at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below forty percent (40%) of area median income.
- 1 point will be awarded if at least fifteen percent (15%) of qualified low-income units will be affordable to and occupied by households with incomes at or below forty percent (40%) of area median income.

(c) If the project is in a Low Income county:

- 2 points will be awarded if at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of area median income.
- 1 point will be awarded if at least fifteen percent (15%) of qualified low-income units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of area median income.

To qualify for an RPP loan, at least forty percent (40%) of qualified low-income units in a project will be affordable to and occupied by households with incomes at or below fifty percent (50%) of area median income. This requirement is waived for any new construction application in a county declared a federal disaster area (Individual Assistance designation) under Hurricane Florence. Targeting in subsection (a), (b) or (c) above counts towards this requirement.

3. INCOME AVERAGING

Only new construction projects and rehabilitation projects not subject to an existing Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits are eligible to utilize income averaging. Applicants electing to use income averaging must comply with the following:

(a) The income average for the property cannot exceed 60% of area median income,
(b) The income average for any bedroom type cannot exceed 60% of area median income,
(c) Market rate units are prohibited, and
(d) For projects with more than one building, Owners must select that each building is part of a multiple building set-aside on line 8b in Part II of IRS Form 8609.

C. PROJECT DEVELOPMENT COSTS, RPP LIMITATIONS, AND WHLP

1. MAXIMUM PROJECT DEVELOPMENT COSTS (NEGATIVE 10 POINTS)

(a) The Agency will assess negative points to applications listing more than the following in lines 5 and 6 of the Project Development Costs (PDC) description, as outlined in Chart A below. The point structure in Chart B will apply to the following:

- all units are detached single family houses or duplexes,

- serving persons with severe mobility impairments,
- development challenges resulting from being within or adjacent to a central business district,
- public housing redevelopment projects, or
- building(s) with both steel and concrete construction and at least four stories of housing.

The per-unit amount calculation includes all items covered by the construction contract, Energy Star, certifications for green programs, and any other costs not unique to the specific proposal.

Chart A	Chart B
$78,000 -10	$89,000 -10

(b) Lines 5 and 6 of the PDC description must total at least $65,000 per unit and cannot exceed $95,000 per unit.

(c) The Agency will review proposed costs for historic adaptive re-use projects and approve the amount during the full application review process but in no case can lines 5 and 6 of the PDC exceed $99,000 per unit.

See Section VI(B) for other cost restrictions.

2. RESTRICTIONS ON RPP AWARDS

(a) Projects requesting RPP funds must submit the Agency's "Notice of Real Property Acquisition" form with the preliminary application and may not:

(i) request RPP funds in excess of the following amounts per unit: $15,000 in High Income counties; $20,000 in Moderate Income counties; $25,000 in Low Income counties,

(ii) include market-rate units,

(iii) involve Principals who have entered into a workout or deferment plan within the previous year for an RPP loan awarded after January 1, 2010,

(iv) request less than $150,000 or more than $800,000 per project,

(v) have a commitment of funds from a local government under terms that will result in more repayment than determined under subsection (C)(2)(b) below,

(vi) have a federally insured loan or one which would require the RPP loan to have a term of more than 20 years or limits repayment, or

(vii) have a Principal listed on SAM.gov as being ineligible to receive federal funds.

The maximum award of RPP funds to any one Principal will be a total of $1,600,000. Requesting an RPP loan may result in an application being ineligible under Section VI(B)(6)(e) if the Agency has inadequate funds.

(b) Projects may only request an RPP loan if the principal and interest payments for RPP and any local government financing will be equal to the anticipated net operating income divided by 1.15, less conventional debt service:

Repayment of RPP and local government loans = (NOI / 1.15) – conventional debt service.

The amount of repayment will be split between the RPP loan and local government lenders based on their relative percentage of loan amounts. For example:

RPP Loan = $400,000 local

government loan = $200,000

Year 1 Year 2 Year 3 Year 4

Anticipated amount available for repayment $10,000 $8,000 $6,000 $4,000 RPP principal and interest payments $6,667 $5,333 $4,000 $2,667 local government P&I payments $3,333 $2,667 $2,000 $1,333

Lien position will be determined by loan amount: the larger loan will have the higher lien position. For equal loan amounts, the local government will have the higher lien position.

(c) Loan payments made to the Applicant, any Principal, member or partner of the ownership entity, or any affiliate thereof, will be taken out of cash flow remaining after RPP payments.

(d) An application may be ineligible for RPP funds due to one or more of the listed parties (including but not limited to members/partners, general contractor, and management agent) having failed to comply with the Agency's requirements on a prior loan.

3. WORKFORCE HOUSING LOAN PROGRAM

(a) Projects with 9% Tax Credits which meet the Agency's loan criteria are eligible for WHLP. As required under the legislation, these criteria support the financing of projects similar to those created under G.S. 105-129.42.

(b) A loan will not be closed until the outstanding balance on the first-tier construction financing exceeds the principal amount and the entire loan must be used to pay down a portion of the then existing construction debt.

(c) The terms will be zero percent (0%) interest, thirty year balloon (no payments). The Agency will take all eligible sources into consideration in setting the amount. The following percent of eligible basis will be the calculated loan amount. In no event will the loan amount exceed the statutory maximum.

County Income Designation	Percent of Eligible Basis	Statutory Maximum
High	4%	$250,000
Moderate	12%	$1,500,000
Low	20%	$2,000,000

Requesting a WHLP loan may result in an application being ineligible under Section VI(B)(6)(e) if the Agency has inadequate funds.

D. CAPABILITY OF THE PROJECT TEAM

1. DEVELOPMENT EXPERIENCE

(a) To be eligible for an award of 9% Tax Credits, at least one Principal must have successfully developed, operated and maintained in compliance either one (1) 9% Tax Credit project in North Carolina or six (6) separate 9% Tax Credit projects totaling in excess of 200 units. The project(s) must have been placed in service between January 1, 2012 and January 1, 2018. Such Principal must:

(i) be identified in the preliminary application as the Applicant under Section III(C)(6),

(ii) become a general partner or managing member of the ownership entity, and

(iii) remain responsible for overseeing the project and operation of the project for a period of two (2) years after placed in service. The Agency will determine what qualifies as successful and who can be considered as involved in a particular project.

(b) All owners and Principals must disclose all previous participation in the low-income housing tax credit program. Additionally, owners and Principals that have participated in an out of state tax credit allocation may be required to complete an Authorization for Release of Information form.

(c) The Agency reserves the right to determine that a particular development team does not meet the threshold requirement of subsection (D)(1)(a) due to differences between its prior work and the proposed project. Particularly important in this evaluation is the type of subsidy program used in the previous experience (such as tax-exempt bonds, RD).

2. MANAGEMENT EXPERIENCE

The management agent must:

(a) have at least one similar tax credit project in their current portfolio,

(b) have a valid North Carolina real estate license and be registered with the North Carolina Secretary of State as of the full application deadline (excluding public housing authorities),

(c) be requesting Key assistance timely and accurately (if applicable),

(d) be reporting in the Agency's Rental Compliance Reporting System (RCRS) timely and accurately (if applicable)

(e) have at least one staff person in a supervisory capacity with regard to the project who has attended at least one Agency sponsored training within the past 12 months as of the full application deadline, and

(f) have at least one staff person serving in a supervisory capacity with regard to the project who has been certified as a tax credit compliance specialist.

Such certification must be from an organization approved by the Agency (see **Appendix C**). None of the persons or entities serving as management agent may have in their portfolio a project with material or uncorrected noncompliance beyond the cure period unless there is a plan of action to address the issue(s). The management agent listed on the application must be retained by the ownership entity for at least two (2) years after project completion, unless the Agency approves a change.

3. PROJECT TEAM DISQUALIFICATIONS

The Agency may disqualify any owner, Principal or management agent, who:

(a) has been debarred or received a limited denial of participation in the past ten years by any federal or state agency from participating in any development program;

(b) within the past ten years has been in a bankruptcy; an adverse fair housing settlement, judgment or administrative determination; an adverse civil rights settlement, judgment or administrative determination; or an adverse federal, state or local government proceeding and settlement, judgment or administrative determination;

(c) has been in a mortgage default or arrearage of three months or more within the last five years on any publicly subsidized project;

(d) has been involved within the past ten years in a project which previously received an allocation of tax credits but failed to meet standards or requirements of the tax credit allocation or failed to fulfill one of the representations contained in an application for tax credits;

(e) has been found to be directly or indirectly responsible for any other project within the past five years in which there is or was uncorrected noncompliance more than three months from the date of notification by the Agency or any other state allocating agency;

(f) interferes with a tax credit application for which it is not an owner or Principal at a public hearing or other official meeting;

(g) has outstanding flags in HUD's national 2530 National Participation system;

(h) has been involved in any project awarded 9% Tax Credits in 2018 for which either the equity investment has not closed as of the full application deadline or the "10% test" has not been met;

(i) has been involved in any project awarded tax credits after 2000 where there has been a change in general partners or managing members during the last five years that the Agency did not approve in writing beforehand;

(j) would be removed from the ownership of a project that is the subject of an application under the rehabilitation set-aside in the current cycle;

(k) requested a qualified contract for a North Carolina tax credit property; or (l) is not in good standing with the Agency.

A disqualification under this subsection (D)(3) will result in the individual or entity involved not being allowed to participate in the 2019 cycle and removing from consideration any application where they are identified.

E. UNIT MIX AND PROJECT SIZE

1. Ten (-10) points will be subtracted from any full application that includes market-rate units. This penalty will not apply where either

- the rents for all market rate units are at least five percent (5%) higher than the maximum allowed for a unit at 60% AMI and the market study indicates that such rents are feasible, or
- there is a commitment for a grant or no-payment financing equal to at least the amount of foregone federal tax credit equity.

2. New construction 9% Tax Credit projects may not exceed the following:

- Metro Region - one hundred and twenty (120) units Central, East, and West Regions - eighty-four (84) units.

3. New construction tax-exempt bond projects may not exceed two hundred (200) units unless approved by the Agency prior to the preliminary application submission.

4. All new construction projects must have at least twenty-four (24) qualified low-income units.

The Agency reserves the right to waive the penalties and limitations in this Section IV(E) for proposals that reduce low-income and minority concentration, including public housing projects, and subsection (E)(2) for proposals that are within a transit station area as defined by the Charlotte Region Transit Station Area Joint Development Principles and Policy Guidelines or adaptive re-use projects where made necessary by the building(s) physical structure.

F. SPECIAL CRITERIA AND TIEBREAKERS

1. ENERGY STAR

New construction residential buildings must comply with all Energy Star standards as defined in **Appendix B** (incorporated herein by reference). Adaptive re-use and rehabilitation projects must comply to the extent doing so is economically feasible and as allowed by historic preservation rules.

2. CREDITS PER UNIT AVERAGE (MAXIMUM 2 POINTS)

The Agency will calculate the average federal tax credits per low-income unit requested on a geographic set-aside basis among new construction full applications and award points based on the following:

Within 4% of the average	2 points
Within 8% of the average	1 point

Any Applicant or Principal attempting to manipulate the average, as determined by the Agency, will have any application(s) they are involved with removed from the competition.

3. APPLICANT BONUS POINT (MAXIMUM 1 POINT)

An Applicant is entitled one bonus point which can be awarded to one application as part of the full application submission. No application can receive more than one bonus point. No Principal or Applicant is entitled to more than one bonus point for all applications in which they may be involved. If a Principal is part of an application in which he/she is not the Applicant but that application receives a Bonus Point, the Principal will not be entitled to use a Bonus Point as an Applicant or Principal on another application. Should an Applicant or Principal use a bonus point on two or more applications, the Agency will determine which application receives the bonus point.

4. UNITS FOR THE MOBILITY IMPAIRED

Five percent (5%) of all units in new construction projects must meet the accessibility standards as defined in **Appendix B** (incorporated herein by reference). THESE UNITS ARE IN ADDITION TO MOBILITY IMPAIRED UNITS REQUIRED BY FEDERAL AND STATE LAW (INCLUDING BUILDING CODES). If laws or codes do not require mobility impaired units for a project, a total of ten percent (10%) of the units must be fully accessible. Units for the mobility impaired should be available to all tenants who would benefit from their design and are not necessarily reserved under the Targeting Program requirements of subsection (F)(5).

5. TARGETING PROGRAM

All projects will be required to target ten percent (10%) of the total units to persons with disabilities and persons who are homeless. Projects with federal project-based rental assistance must target at least five (5) units regardless of size. Projects that have targeted units under this subsection are not required to provide onsite supportive services or a service coordinator.

Owners must submit the following documents, all of which are fully described in **Appendix D** (incorporated herein by reference).

(a) Targeting Unit Agreement

(b) Owner Agreement to Participate (if applicable)

(c) Property Profile

(d) Tenant Selection Plan

(e) Rental Assistance Plan (if applicable)

(f) Affirmative Fair Housing Marketing Plan

These documents must be submitted to the Agency no later than the times specified in **Appendix D** but in no case later than six months prior to the project's placed in service date. The Agency may set additional requirements, as needed. The requirements of this subsection (F)(5) may be fully or partially waived to the extent the Agency determines they are not feasible.

6. OLMSTEAD SETTLEMENT INITIATIVE (MAXIMUM 4 POINTS)

(a) Projects proposing 1 bedroom units as a percentage of the total project units will be awarded points based on the following:

7.5% of total units	1 point
10% of total units	2 points
15% of total units	3 points

(b) Projects proposed in the following DHHS priority counties will be awarded 1 point.

Buncombe	Craven	Gaston	Mecklenburg	Robeson
Burke	Cumberland	Guilford	New Hanover	Rowan
Cabarrus	Durham	Iredell	Onslow	Wake
Caldwell	Forsyth	Johnston	Pitt	Wayne

7. SECTION 1602 EXCHANGE PROJECTS (NEGATIVE 40 POINTS)

The Agency may deduct up to forty (-40) points from any application if the Applicant, any owner, Principal or affiliate thereof is also involved in a Section 1602 Exchange project with uncorrected material noncompliance.

8. TIEBREAKER CRITERIA

The following will be used to award tax credits in the event that the final scores of more than one project are identical.

(a) First Tiebreaker: The project in the census tract with the lowest percentage of families below the poverty rate (see **Appendix H** for listing of poverty rates by census tract).

(b) Second Tiebreaker: The project requesting the least amount of federal tax credits per low-income unit based on the Agency's equity needs analysis.

(c) Third Tiebreaker: The project with the lowest average income targeting.

(d) Fourth Tiebreaker: Tenants with Children: Projects that can serve tenant populations with children. Projects will qualify for this designation if at least twenty-five (25%) of the units are three or four bedrooms. This tiebreaker will only apply where the market study shows a clear demand for this population (as determined by the Agency).

(e) Fifth Tiebreaker: Tenant Ownership: Projects that are intended for eventual tenant ownership. Such projects must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 30year compliance period.

In the event that a tie remains after considering the above tiebreakers, the project requesting the least amount of federal tax credits will be awarded.

G. DESIGN STANDARDS

All proposed measures must be shown in the application to receive points.

1. THRESHOLD REQUIREMENTS

The minimum threshold requirements for design are found in **Appendix B** (incorporated herein by reference) and must be used for all projects receiving tax credits or RPP funding.

2. CRITERIA FOR SCORE EVALUATION (MAXIMUM 30 POINTS)

The Agency will determine points based on the following criteria as applied to the site drawings submitted with the full application.

(a) Site Layout

The Agency will award up to 5 points based on its evaluation of the site layout. The following characteristics will be considered.

(i) The location of residential buildings in relation to parking, site amenities, community building, postal facilities and trash collection areas.

(ii) The degree to which site layout ensures a low, controlled traffic speed through the project.

(b) Quality of Design and Construction

(The points in this subsection are mutually exclusive with Section IV(G)(2)(c) below.)

The Agency will award up to 25 points for new construction projects based on its evaluation of the quality of the building design, and the materials and finishes specified. The following characteristics will be considered:

(i) The extent to which the design uses multiple roof lines, gables, dormers and similar elements to break up large roof sections.

(ii) The extent to which the design uses multiple types, styles, and colors of siding and brick veneer to add visual appeal to the building elevations.

(iii) The level of detail that is achieved through the use of porches, railings, and other exterior features.

(iv) Use of brick veneer or masonry products on building exteriors.

(c) Adaptive Re-Use

(The points in this subsection are mutually exclusive with Section IV(G)(2)(b) above.)

The Agency will award up to 25 points based on the following characteristics:

(i) The extent to which the building(s) fit with surrounding streetscape after adaptation or have problems with orientation, sightlines, bulk and scale.

(ii) Aesthetics after adaptation.

(iii) Presence of special design elements or architectural features that may not be physically or financially available if new construction was introduced on the same site.

H. CRITERIA FOR SELECTION OF REHABILITATION PROJECTS

1. GENERAL THRESHOLD REQUIREMENTS

To be eligible for an allocation under Section II(A), a project must:

(a) have either (i) received a tax credit allocation and be in the extended use period or (ii) federal project-based rental assistance for at least thirty percent (30%) of the total units,

(b) have been placed in service on or before December 31, 2003,

(c) require rehabilitation expenses in excess of $25,000 per unit (as supported by a physical needs assessment conducted or approved by the Agency),

(d) not have an acquisition cost in excess of sixty percent (60%) of the total replacement costs,

(e) not be feasible using tax-exempt bonds (as determined by the Agency),

(f) not have received an Agency loan in the last five years,

(g) not be deteriorated to the point of requiring demolition,

(h) not have begun or completed a full debt restructuring under the Mark to Market process (or any similar HUD program) within the last five years, and

(i) have total replacement costs of less than $130,000 per unit, including all Agency-required rehabilitation work.

Rehabilitation expenses include hard construction costs directly attributable to the project, excluding costs for a new community building, as calculated using lines 2 through 7 (less line 6) in the PDC description.

2. THRESHOLD DESIGN REQUIREMENTS

In addition to the relevant sections of **Appendix B** (incorporated herein by reference), the Agency will require owners to complete the following as appropriate for their project.

(a) Improve site amenities and common areas by upgrading or adding a freestanding community building, making repairs and additions to landscaping, adding new site amenities such as playgrounds, and repairing parking areas.

(b) Improve building exteriors by replacing deteriorated siding, replacing aged roofing, adding gutters and downspouts, and adding new architectural features to improve appearance.

(c) Upgrade unit interiors by replacing flooring, installing new cabinets and countertops, replacing damaged interior doors, replacing light fixtures, and repainting units.

(d) Replace and upgrade mechanical systems and appliances including HVAC systems, water heaters and plumbing fixtures, electrical panels, refrigerators, and ranges.

(e) Improve energy efficiency by replacing inefficient doors and windows, adding additional insulation in attics, and upgrading the efficiency of mechanical systems and appliances.

(f) Improve site and unit accessibility for persons with disabilities by making necessary alterations at common areas, alterations at single story ground floor units, adding or improving handicapped parking areas, and repairing or replacing sidewalks along accessible routes.

3. EVALUATION CRITERIA

The Agency will evaluate applications under Section II(A) based on the following criteria, which are listed in order of importance. Each one will serve both to determine awards and as a threshold requirement; the Agency may remove an application from consideration if the proposal is sufficiently inadequate in any of the categories. For purposes of making awards, the Agency will not consider subsections (d) through (f) below if the outcome is determined by the criteria in subsections (a) through (c).

(a) The Agency will give the highest priority to applications proposing to rehabilitate the most distressed housing with a tax credit allocation, particularly buildings with accessibility or life, health and safety problems.

(b) Applications will have a reduced likelihood of receiving an award of tax credits if the Agency determines the property has not been properly maintained and any current owner will remain part of the new ownership.

(c) Applications will have a reduced likelihood of being awarded tax credits to the extent that the purpose is to subsidize an ownership transfer.

(d) Shortcomings in the above criteria will be mitigated to the extent that a tax credit allocation is necessary to prevent (i) conversion of units to market rate rents or (ii) loss of government resources (including past, present and future investments).

(e) The Agency will give priority to applications that have mortgage subsidy resources committed as part of the application.

(f) Applications will have priority to the extent that the rehabilitation improvements are a part of a community revitalization plan or will benefit the surrounding community. However, projects in severely distressed areas will have a reduced likelihood of being awarded tax credits.

(g) Applications will have a reduced likelihood of being awarded tax credits based on the number of tenants that would be permanently relocated (including market-rate).

(h) While the rehabilitation set-aside is not subject to any regional set-aside, the Agency will consider the geographic distribution of this resource and will attempt to avoid a concentration of awards in any one area of the state.

V. ALLOCATION OF BOND CAP

A. ORDER OF PRIORITY

The Committee will allocate the multifamily portion of the state's tax-exempt bond authority in the following order of priority:

1. Projects that serve as a component of an overall public housing revitalization effort.
2. Rehabilitation of existing rent restricted housing.
3. Rehabilitation of projects consisting of entirely market-rate units.
4. Adaptive re-use projects.
5. Other new construction projects.

Applications will only be allocated bond authority if there is enough remaining after awarding all eligible applications in higher priority levels. Within each category, applications seeking the least amount of authority per low-income unit will have priority.

B. ELIGIBILITY FOR AWARD

Except as otherwise indicated, owners of projects with tax-exempt bonds and 4% Tax Credits must meet all requirements of the Plan. Even with an allocation of bond authority, projects must meet the threshold requirements to be eligible for tax credits.

1. All projects must meet the requirements under Section IV(F)(5).
2. Rehabilitation applications must:
   (a) have been placed in service on or before December 31, 2003,
   (b) require rehabilitation expenses in excess of $15,000 per unit,
   (c) not have an acquisition cost in excess of seventy percent (70%) of the total replacement costs,
   (d) not have begun or completed a full debt restructuring under the Mark to Market process (or any similar HUD program) within the last five years, and
   (e) not be deteriorated to the point of requiring demolition.
3. The inducement resolution must be submitted with the full application.
4. To be eligible for an award of tax-exempt bond volume, at least one Principal must have successfully developed, operated and maintained in compliance either one 9% Tax Credit project in North Carolina or one tax-exempt bond project in any state. The project must have been placed in service between January 1, 2012 and January 1, 2018. Such Principal must:
   - be identified in the preliminary application as the Applicant under Section III(C)(6),
   - become a general partner or managing member of the ownership entity, and
   - remain responsible for overseeing the project and operation of the project for a period of two (2) years after placed in service.

   The Agency will determine what qualifies as successful and who can be considered as involved in a particular project.

VI. GENERAL REQUIREMENTS

A. GENERAL THRESHOLD REQUIREMENTS FOR PROJECT PROPOSALS

1. PROJECTS WITH HISTORIC TAX CREDITS

Buildings either must be on the National Register of Historic Places or approved for the State Historic Preservation Office's study list at the time of the full application. Evidence of meeting this requirement should be provided.

2. NONPROFIT SET-ASIDE

For purposes of being considered as a nonprofit sponsored application under Section II(D)(1)(a), at least one nonprofit entity (or, where applicable, its qualified corporation) involved in a project must:

(a) be qualified under Section 501(c)(3) or (4) of the Code,

(b) materially participate, as defined under federal law, in the acquisition, development, ownership, and ongoing operation of the property for the entire compliance period, (c) have as one of its exempt purposes the fostering of low-income housing, (d) be a managing member or general partner of the ownership entity.

The Agency reserves the right to make a determination that the nonprofit owner is not affiliated with or controlled by a for-profit entity or entities other than a qualified corporation. There can be no identity of interest between any nonprofit owner and for-profit entity, other than a qualified corporation.

3. REQUIRED REPORTS

All projects involving use of existing structures must submit the following:

(a) For projects built prior to 1978, a hazardous material report which provides the results of testing for asbestos containing materials, lead based paint, Polychlorinated Biphenyls (PCBs), underground storage tanks, petroleum bulk storage tanks, Chlorofluorocarbons (CFCs), and other hazardous materials. The testing must be performed by professionals licensed to do hazardous materials testing. A report written by an architect or building contractor or developer will not suffice. A plan and projected costs for removal of hazardous materials must also be included.

(b) A report assessing the structural integrity of the building(s) being renovated from an architect or engineer. Report must be dated no more than six (6) months from the full application deadline.

(c) A current termite inspection report. Report must be dated no more than six (6) months from the full application deadline.

4. APPRAISALS

The Agency will not allow the project budget to include more for land or lease costs than the lesser of its appraised market value or the purchase or lease price. Applicants must submit with the full application a real estate "as is" appraisal that is a) dated no more than six (6) months from the full application deadline, b) prepared by an independent, state certified appraiser and c) complies with the Uniform Standards of Professional Appraisal Practice. The appraisal must encompass all parcels that comprise the project. The Agency may order an additional appraisal with costs to be paid by the Applicant. Appraisals for rehabilitation and adaptive re-use projects must break out the land and building values from the total value.

5. CONCENTRATION

Projects cannot be in areas of minority and low-income concentration (measured by comparing the percentage of minority and low-income households in the site's census tract with the community overall).

The Agency may make an exception for projects in economically distressed areas which have community revitalization plans with public funds committed to support the effort.

6. DISPLACEMENT

For rehabilitation projects and in every other instance of tenant displacement, including temporary, the Applicant must supply with the full application a plan describing how displaced persons will be relocated, including a description of the costs of relocation. The owner is responsible for all relocation expenses, which must be included in the project's development budget. Owners must also comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as revised in 49 C.F.R. Part 24.

7. FEASIBILITY

The Agency will not allocate tax credits or RPP funding to applications that may have difficulty being completed or operated for the compliance period. Examples include projects that may not secure an equity investment or a Principal that has inadequate capacity to successfully carry out the development process.

8. SMOKE-FREE HOUSING

Owners must prohibit smoking in all indoor common areas, individual living areas (including patios and balconies), and within 25 feet of building entries or ventilation intakes. A non-smoking clause must be included in the lease for each household.

B. UNDERWRITING THRESHOLD REQUIREMENTS

The following minimum financial underwriting requirements apply to all projects. Projects that cannot meet these minimum requirements, as determined by the Agency, will not receive tax credits or RPP funding. Any documentation required as part of the application must be dated and be within 6 months of the application deadline, unless otherwise stated.

1. LOAN UNDERWRITING STANDARDS

(a) Projects applying for tax credits only will be underwritten with rents escalating at two percent (2%) and operating expenses escalating at three percent (3%).

(b) All projects will be underwritten assuming a constant seven percent (7%) vacancy and must reflect a 1.15 Debt Coverage Ratio (DCR) for twenty (20) years.

(c) Applications requesting RPP funds must use current Low HOME rents for fifteen percent (15%) of the total units (spread proportionally through all bedroom types) and may be required to comply with HOME program requirements, including 42 U.S.C. 12701 et seq., 24 C.F.R. Part 92 and all relevant administrative guidance. Projects awarded RPP funds must also comply with the RPP Guidelines in **Appendix G** (incorporated herein by reference).

(d) The Agency may determine that the interest rate on a loan must be reduced where an application shows an excessive amount accruing towards a balloon payment.

2. OPERATING EXPENSES

(a) New construction (excluding adaptive re-use): minimum of $3,600 per unit per year not including taxes, reserves and resident support services.

(b) Renovation (includes rehabilitation and adaptive re-use): minimum of $3,800 per unit per year not including taxes, reserves and resident support services. For projects with RD loans, the operating expenses will be based upon the current RD approved operating budget.

(c) The proposed management agent (or management staff if there is an identity of interest) must sign a statement (to be submitted with the full application) agreeing that the operating expense projections are reasonable.

3. EQUITY PRICING

(a) Projects will be underwritten using Applicants proposed equity pricing. Pricing above $0.94 will require a commitment letter from a syndicator or investor with as much detail as is possible. At a minimum, the letter should include the equity pricing, total capital contribution amount, estimated pay-in schedule and any reserve requirements. Should an Applicant receive an allocation of tax credits and fail to receive equity pricing at least equal to the pricing used in the awarded application, any equity shortfall will be the responsibility of the Applicant. The Agency will not approve an increase of the rents stated in the awarded application to support additional debt to cover the equity shortfall.

(b) Equity should be calculated net of any syndication fees. Bridge loan interest typically incurred by the syndicator to enable an up front payment of equity should not be charged to the project directly, but be reflected in the net payment of equity. Equity should be based on tax credits to be used by the investor(s), excluding those allocated to the Principals unless these entities are making an equity contribution in exchange for the tax credits.

4. RESERVES

(a) Rent-up Reserve: Required for all except tax-exempt bond projects. A reasonable amount must be established based on the projected rent-up time considering the market and target population, but in no event shall be less than $300 per unit. These funds must be available to the management agent to pay rent-up expenses incurred in excess of rent-up expenses budgeted for in the PDC description. The funds are to be deposited in a separate bank account and evidence of such transaction provided to the Agency ninety (90) days prior to the expected placed in service date. All funds remaining in the rent-up reserve at the time the project reaches ninety-three (93%) occupancy must be transferred to the project replacement reserve account.

For those projects receiving loan funds from RD, the 2% initial operating and maintenance capital established by RD will be considered the required rent-up reserve deposit.

(b) Operating Reserve: Required for all projects except those receiving loan funds from RD. The operating reserve will be the greater of a) $1,500 per unit or b) six month's debt service and operating expenses (four months for tax-exempt bond projects), and must be maintained for the duration of the extended use period.

The operating reserve can be funded by deferring the developer fees of the project. If this method is utilized, the deferred amounts owed to the developer can only be repaid from cash flow if all required replacement reserve deposits have been made. For tax credit projects where no RPP loan applies, the operating reserve can be capitalized by an equity pay in up to one year after certificate of occupancy is received. This will be monitored by the Agency. This reserve must stay with the project at the time of investor exit.

(c) Replacement Reserve: All new construction projects must budget replacement reserves of $250 per unit per year. Rehabilitation and adaptive re-use projects must budget replacement reserves of $350 per unit per year. The replacement reserve must be capitalized from the project's operations, escalating by four percent (4%) annually. This reserve must stay with the project at the time of investor exit.

In both types of renovation projects mentioned above, the Agency reserves the right to increase the required amount of annual replacement reserves if the Agency determines such an increase is warranted after a detailed review of the project's physical needs assessment.

For those projects receiving RD loan funds, the required funding of the replacement reserve will be established, administered and approved by RD.

5. DEFERRED DEVELOPER FEES (NEGATIVE 2 POINTS)

Developer fees can be deferred to cover a gap in funding sources as long as:

(a) the entire amount will be paid within fifteen years and meets the standards required by the IRS to stay in basis,

(b) the deferred portion does not exceed fifty percent (50%) of the total amount as of the full application, and

(c) payment projections do not negatively impact the operation of the project.

Each of these will be determined by the Agency. Nonprofit organizations must include a resolution from the Board of Directors allowing such a deferred payment obligation to the project. The developer may not charge interest on the deferred amount in excess of the long term AFR.

Deferment of more than twenty-five (25%) of the total developer fee will result in a deduction of 2 points.

6. FINANCING COMMITMENT

(a) For all projects proposing private permanent financing, a letter of intent is required (see **Appendix E**). This letter must be on lender's letterhead, must clearly state the term of the permanent loan is at least fifteen (15) years, how the interest rate will be indexed and the current rate at the time of the letter, the amortization period, any prepayment penalties, anticipated security interest in the property, and lien position. The interest rate must be fixed and no balloon payments may be due for fifteen years.

(b) For all projects proposing public permanent financing, binding commitments on lender's letterhead are required to be submitted by the full application deadline (see **Appendix E**). Local governments also must identify the source of funding (e.g. HOME, trust fund). All loans must have a fixed interest rate and no balloon payments for at least fifteen (15) years after project completion. A binding commitment is defined as a letter, resolution or binding contract from a unit of government. The same terms described for the letter of intent (using the format approved by the Agency) from a private lender must be included in the commitment.

(c) The Agency may request a letter from a construction lender documenting the loan amount, interest rate, and any origination fees.

(d) Any Owner Investment listed as a source cannot exceed $10,000.

(e) Applications may only include one set of proposed funding sources; the Agency will not consider multiple financial scenarios. A project will be ineligible for allocation if any of the listed funding sources will not be available in an amount or under the terms described in the application. The Agency may waive this limitation if the project otherwise demonstrates financial feasibility. Project cash flow may not be used as a source of funds.

7. DEVELOPER FEES

(a) Developer fees shall be up to $13,000 per unit for new construction projects and twenty-eight point five percent (28.5%) of PDC line item 4 for rehabilitation projects, both being set at award.

(b) Notwithstanding the amount calculated in subsection (7)(a), the developer fee for any project shall be a maximum of $1,300,000 (the maximum for projects with tax-exempt bonds is $2,600,000).

(c) Contractor general requirements shall be limited to six percent (6%) of hard costs.

(d) Contractor profit and overhead shall be limited to ten percent (10%) (8% profit, 2% overhead) of total hard costs, including general requirements.

(e) Where an identity of interest exists between the owner and contractor, the contractor profit and overhead shall be limited to eight percent (8%) (6% profit, 2% overhead).

8. CONSULTING FEES

The total amount of any consulting fees and developer fees shall be no more than the maximum developer fee allowed to that project.

9. ARCHITECTS' FEES

The architects' fees, including design and inspection fees, shall be limited to three percent (3%) of the total hard costs plus general requirements, overhead, profit and construction contingency (total of lines 2 through 10 on the PDC description). This amount does not include engineering costs.

10. INVESTOR SERVICES FEES

Investor services fees must be paid from net cash flow and not be calculated into the minimum debt coverage ratio.

11. PROJECT CONTINGENCY FUNDING

All new construction projects shall have a hard cost contingency line item of five percent (5%) of total hard costs, including general requirements, contractor profit and overhead. Rehabilitation and adaptive re-use projects shall include a hard cost contingency line item of ten percent (10%) of total hard costs.

12. PROJECT OWNERSHIP

There must be common ownership between all units and buildings within a single project for the duration of the compliance period.

13. SECTION 8 PROJECT-BASED RENTAL ASSISTANCE

For all new construction projects that propose to utilize Section 8 project-based rental assistance, the Agency will underwrite the rents according to the tax credit and HOME limits. These limits are based on data published annually by HUD. If the Section 8 contract administrator is willing to allow rents above these limits, the project may receive the additional revenue in practice, but Agency underwriting will use the lower revenue projections regardless of the length of the Section 8 contract.

Given the uncertainty of long-term federal commitment to Section 8 rental assistance, the Agency considers underwriting to the more conservative revenue levels to best serve the project's long-term financial viability.

14. WATER, SEWER, AND TAP FEES

Any water, sewer, and tap fees charged to the project must be entered on a separate line item of the PDC description. Applications must provide letters from local provider(s) documenting either the amounts or if no fees will be charged.

VII. POST-AWARD PROCESSES AND REQUIREMENTS

A. ALLOCATION TERMS AND REVOCATION

1. At any time between award and issuance of IRS Form 8609, owners must have approval from the Agency prior to:

(a) changing the anticipated or final sources (amount, terms, or provider), including equity;

(b) increasing the anticipated or final uses by more than two percent (2%);

(c) altering the designs approved by
- the Agency at full application, or
- local building code office, including amenities, site layout, floor plans and elevations (Approved Design);

(d) starting construction, including sitework;

(e) increasing rents for new construction low-income units;

(f) increasing rents for rehabilitation low-income units above existing rents at time of award (rents shown in the approved application can be instituted once rehabilitation is complete); (g) any other change to the awarded application.

At its discretion, the Agency can request any documentation related to project costs. If an increase in uses or design alteration is due to a local government requirement, owners do not need prior approval but rather must provide the Agency with prompt written notice. Failure to comply with a requirement of this subsection may result in a fine of up to $25,000, revocation of the reservation or allocation, future disqualification under Section IV(D)(3) of any Principal involved, or other recourse available to the Agency.

2. Ownership entities must submit a completed carryover agreement and expend at least ten percent (10%) of the project's reasonably expected basis, both by dates to be determined by the Agency.

3. IRS Form 8609 will not be issued until:

(a) submission of a Final Cost Certification by an independent auditor that complies with the Agency's requirements;

(b) the owner documents attendance at an Agency sponsored or approved tax credit compliance seminar sponsored within the previous 12 months (see **Appendix C** for list of approved seminars); the management agent documents attendance at an Agency sponsored tax credit compliance seminar within the previous 12 months;

(c) monitoring fees have been paid;

(d) the project has been built according to the Approved Design;

(e) the Agency determines the project has adhered to all representations made in the approved application and will meet all relevant Plan requirements;

(f) documentation of the ownership entity having paid all applicable state and local taxes for the most recent year due; and

(g) submission of a listing of the name and address for all contractors and subcontractors indicating if there exists an identity of interest with the Owner and a statement from each representing the entity will comply with all applicable employment rules and regulations.

4. The actual tax credits allocated will be the lesser of the tax credits reserved, the applicable rate multiplied by qualified basis (as approved by the Agency), or the amount determined by the Agency pursuant to its evaluation as required under Section 42(m)(2) of the Code. Projects will be required to elect a project-based allocation. An allocation does not constitute a representation or warranty by the Agency or Committee that the ownership entity or its owners will qualify for the tax credits. The Agency's interpretation of the Code, regulations, notices, or other guidance is not binding on the federal government.

5. Owners must record, prior to all other liens against the property in the registry of deeds in the county where the project is located, a thirty (30) year Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (Extended Use Agreement) stating the owner will not apply for relief under Section 42(h)(6)(E)(i)(II) of the Code and will comply with other requirements under the Code, Plan, other relevant statutes and regulations, and all representations made in the approved application. The Extended Use Agreement also may contain other provisions as determined by the Agency. The owner must have good and marketable title and obtain the consent of any prior recorded lienholder (other than for construction financing) to be bound by the Extended Use Agreement terms. Owners may not

claim tax credits in any taxable year unless the Extended Use Agreement is in effect and appropriately recorded.

6. The Agency may revoke an allocation if the owner fails to implement all representations in the approved application. In addition to the terms of Section VII(A)(1), owners will acknowledge that the following constitute conditions to their allocation:

(a) accuracy of all representations made to the Agency, including application uploads,

(b) adherence to the Plan and all applicable federal, state and local laws and ordinances, including the Code and Fair Housing Act,

(c) provision and maintenance of amenities for the benefit of the tenants, and

(d) not incurring a penalty under N.C.G.S. § 105-236 for failure to file a return, failure to pay taxes, or having a large tax deficiency (as defined under N.C.G.S. § 105-236). The Agency may request documentation demonstrating all project related taxes have been paid.

An owner's or project's failure to comply with all such conditions without written authorization from the Agency will entitle the Agency, in its discretion, to deem the allocation to be cancelled by mutual consent. After any such cancellation, the owner will acknowledge that neither it nor the project will have any right to claim tax credits pursuant to the allocation. The Agency reserves the right, in its discretion, to modify or waive any such failed condition.

B. COMPLIANCE MONITORING

1. Owners must comply with Section 42 of the Code, IRS regulations, rulings, procedures, decisions and notices, state statutes, the Fair Housing Act, state laws, local codes, Agency loan documents, **Appendix F** (incorporated herein by reference), and any other legal requirements. The Agency may treat any failure to do so as a violation of the Plan.

2. The Agency will adopt and revise standards, policies, procedures, and other requirements in administering the tax credit program. Examples include training and online reporting. Owners must comply with all such requirements regardless of whether or not they expressly appear in the Plan or **Appendix F**. The Agency will have access to any project information, including physical access to the property, all financial records and tenant information.

VIII. DEFINITIONS

The terms listed below will be defined in the Plan as indicated below regardless of capitalization, unless the context clearly indicates otherwise. Terms used in the Plan but not defined below will have the same meaning as under the Code and IRS regulations.

4% Tax Credit: Low-income housing tax credits available pursuant to Section 42(h)(4) of the Code.

9% Tax Credit: Low-income housing tax credits available for allocation under the state's volume cap pursuant to Section 42(h)(3) of the Code.

Affiliate: As to any person or entity (i) any entity of which a majority of the voting interest is owned by such person or entity, (ii) any person or entity directly or indirectly controlling (10% or more) such person or entity, (iii) any person or entity under direct or indirect common control with any such person or entity, or (iv) any officer, director, employee, manager, stockholder (10% or more), partner or member of any such person or entity or of any person or entity referred to in the preceding clauses (i), (ii) or (iii).

Applicant: The entity considered under Section III(C)(6).

Choice-Limiting Activity: Includes leasing or disposition of real property and any activity that will result in a physical change to the property, including acquisition, demolition, movement, rehabilitation, conversion, repair, or construction.

Developer: Any individual or entity responsible for initiating and controlling the development process and ensuring that all, or any material portion of all, phases of the development process are accomplished. Furthermore, the developer is the individual or entity identified as such in the Ownership Entity Agreement and any and all Development Fee Agreements.

Entity: Without limitation, any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, public agency or other entity, other than a human being.

Management Agent: Individual(s) or Entity responsible for the day to day operations of the project, which may or may not be related to the Owner(s) or ownership entity.

Market-Rate Units: Units that are not subject to tax credit restrictions; does not include manager units.

Material Participation: Involvement in the development and operation of the project on a basis which is regular, continuous and substantial throughout the compliance period as defined in Code Sections 42 and 469(h) and the regulations promulgated thereunder.

Owner(s): Person(s) or entity(ies) that own an equity interest in the Ownership Entity.

Ownership Entity: The ownership entity to which tax credits and/or any RPP loan funds will be awarded.

Person: Any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so requires.

Person with a Disability: An adult who has a permanent physical or mental impairment which substantially limits one or more major life activities as further defined in North Carolina's Persons with Disabilities Protection Act (N.C.G.S. § 168A-3 (7a)).

Person who is Homeless: An adult who is living in places not meant for habitation (such as streets, cars, parks), emergency shelter, or in transitional or temporary housing but originally came from a place not meant for habitation or emergency shelter.

Principal: Principal includes (1) all persons or entities who are or who will become partners or members of the ownership entity, (2) all persons or entities whose affiliates are or who will become partners or members of the ownership entity, (3) all persons or entities who directly or indirectly earn a portion of the development fee for development services with respect to a project and/or earn any compensation for development services rendered to such project, which compensation is funded directly or indirectly from the development fee of such project, and such amount earned exceeds the lesser of twenty-five percent (25%) of the development fee for such project or $100,000, and (4) all affiliates of such persons or entities in clause (3) who directly or indirectly earn a portion of the development fee for development services with respect to any project in the current year and/or earn any compensation for development services rendered to any project in the current year, which compensation is funded directly or indirectly from the development fee of any such project, and such amount earned exceeds the lesser of twenty-five percent 25% of the development fee for such project or $100,000. For purposes of determining Principal status the Agency may disregard multiple layers of passthrough or corporate entities. A partner or member will not be a Principal where its only involvement is that of the tax credit equity investor.

Qualified Corporation: Any corporation if, at all times such corporation is in existence, 100% of the stock of such corporation is held by a nonprofit organization that meets the requirements under Code Section 42(h)(5).

Rental Production Program (RPP): Agency loan program for multifamily affordable rental housing.