



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX A

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

## Internal Revenue Code

### § 42 LOW-INCOME HOUSING CREDIT

#### (a) In general.

For purposes of section 38, the amount of the low-income housing credit determined under this section for any taxable year in the credit period shall be an amount equal to—

- (1) the applicable percentage of
- (2) the qualified basis of each qualified low-income building.

#### (b) Applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings.

##### (1) Determination of applicable percentage.

(A) For purposes of this section, the term “applicable percentage” means, with respect to any building, the appropriate percentage prescribed by the Secretary for the earlier of—

(i) the month in which such building is placed in service, or

(ii) at the election of the taxpayer—

(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

(B) Method of prescribing percentages. The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

(i) 70 percent of the qualified basis of a new building which is not federally subsidized for the taxable year, and

(ii) 30 percent of the qualified basis of a building not described in clause (i).

(C) Method of discounting. The present value under subparagraph (B) shall be determined—

(i) as of the last day of the 1st year of the 10-year period referred to in subparagraph (B) ,

(ii) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under clause (i) or (ii) of subparagraph (A) and compounded annually, and

(iii) by assuming that the credit allowable under this section for any year is received on the last day of such year.

**(2) Temporary minimum credit rate for non-federally subsidized new buildings.**

In the case of any new building—

(A) which is placed in service by the taxpayer after the date of the enactment of this paragraph and before December 31, 2013, and

(B) which is not federally subsidized for the taxable year, the applicable percentage shall not be less than 9 percent.

**(3) Cross references.**

(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

(B) For determination of applicable percentage for increases in qualified basis after the first year of the credit period, see subsection (f)(3).

(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(7).

**(c) Qualified basis; qualified low-income building.**

For purposes of this section —

**(1) Qualified basis.**

(A) Determination. The qualified basis of any qualified low-income building for any taxable year is an amount equal to—

(i) the applicable fraction (determined as of the close of such taxable year) of

(ii) the eligible basis of such building (determined under subsection (d)(5) ).

(B) Applicable fraction. For purposes of subparagraph (A), the term “applicable fraction” means the smaller of the unit fraction or the floor space fraction.

(C) Unit fraction. For purposes of subparagraph (B), the term “unit fraction” means the

fraction—

- (i) the numerator of which is the number of low-income units in the building, and
- (ii) the denominator of which is the number of residential rental units (whether or not occupied) in such building.

(D) Floor space fraction. For purposes of subparagraph (B) , the term “floor space fraction” means the fraction—

- (i) the numerator of which is the total floor space of the low-income units in such building, and
- (ii) the denominator of which is the total floor space of the residential rental units (whether or not occupied) in such building.

(E) Qualified basis to include portion of building used to provide supportive services for homeless. In the case of a qualified low-income building described in subsection (i)(3)(B)(iii), the qualified basis of such building for any taxable year shall be increased by the lesser of—

- (i) so much of the eligible basis of such building as is used throughout the year to provide supportive services designed to assist tenants in locating and retaining permanent housing, or
- (ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph).

**(2) Qualified low-income building.** The term “qualified low-income building” means any building—

(A) which is part of a qualified low-income housing project at all times during the period—

- (i) beginning on the first day in the compliance period on which such building is part of such a project, and
- (ii) ending on the last day of the compliance period with respect to such building, and

(B) to which the amendments made by section 201(a) of the Tax Reform Act of 1986 apply.

**(d) Eligible basis.**

For purposes of this section —

**(1) New buildings.** The eligible basis of a new building is its adjusted basis as of the close of the first taxable year of the credit period.

**(2) Existing buildings.**

(A) In general. The eligible basis of an existing building is—

- (i) in the case of a building which meets the requirements of subparagraph (B), its adjusted basis as of the close of the 1st taxable year of the credit period, and
- (ii) zero in any other case.

(B) Requirements. A building meets the requirements of this subparagraph if—

- (i) the building is acquired by purchase (as defined in section 179(d)(2) ),
- (ii) there is a period of at least 10 years between the date of its acquisition by the taxpayer and the date the building was last placed in service,
- (iii) the building was not previously placed in service by the taxpayer or by any person who was a related person with respect to the taxpayer as of the time previously placed in service, and
- (iv) except as provided in subsection (f)(5), a credit is allowable under subsection (a) by reason of subsection (e) with respect to the building.

(C) Adjusted basis. For purposes of subparagraph (A), the adjusted basis of any building shall not include so much of the basis of such building as is determined by reference to the basis of other property held at any time by the person acquiring the building.

(D) Special rules for subparagraph (B).

(i) Special rules for certain transfers. For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation,

(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such

person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure, or

(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence.

(ii) Related person. For purposes of subparagraph (B)(iii), a person (hereinafter in this subclause referred to as the “related person”) is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

**(3) Eligible basis reduced where disproportionate standards for units.**

(A) In general. Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

(B) Exception where taxpayer elects to exclude excess costs.

(i) In general. Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

(ii) Excess. The excess described in this clause with respect to any unit is the excess of—

(I) the cost of such unit, over

(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs.

**(4) Special rules relating to determination of adjusted basis.**

For purposes of this subsection —

(A) In general. Except as provided in subparagraphs (B) and (C), the adjusted basis of any building shall be determined without regard to the adjusted basis of any property which is not residential rental property.

(B) Basis of property in common areas, etc., included. The adjusted basis of any building shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in common areas or provided as comparable amenities to all residential rental units in such building.

(C) Inclusion of basis of property used to provide services for certain non-tenants.

(i) In general. The adjusted basis of any building located in a qualified census tract (as defined in paragraph (5)(C)) shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation and not otherwise taken into account) used throughout the taxable year in providing any community service facility.

(ii) Limitation. The increase in the adjusted basis of any building which is taken into account by reason of clause (i) shall not exceed the sum of—

(I) 25 percent of so much of the eligible basis of the qualified low-income housing project of which it is a part as does not exceed \$15,000,000, plus

(II) 10 percent of so much of the eligible basis of such project as is not taken into account under subclause (I).

For purposes of the preceding sentence, all community service facilities which are part of the same qualified low-income housing project shall be treated as one facility.

(iii) Community service facility. For purposes of this subparagraph, the term “community service facility” means any facility designed to serve primarily individuals whose income is 60 percent or less of area median income (within the meaning of subsection (g)(1)(B)).

(D) No reduction for depreciation. The adjusted basis of any building shall be determined without regard to paragraphs (2) and (3) of section 1016(a).

**(5) Special rules for determining eligible basis.**

(A) Federal grants not taken into account in determining eligible basis. The eligible basis of a building shall not include any costs financed with the proceeds of a federally funded grant.

(B) Increase in credit for buildings in high cost areas.

(i) In general. In the case of any building located in a qualified census tract or difficult development area which is designated for purposes of this subparagraph —

(I) in the case of a new building, the eligible basis of such building shall be 130 percent of such basis determined without regard to this subparagraph, and

(II) in the case of an existing building, the rehabilitation expenditures taken into account under subsection (e) shall be 130 percent of such expenditures determined without regard to this subparagraph .

(ii) Qualified census tract.

(I) In general. The term “qualified census tract” means any census tract which is designated by the Secretary of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent. If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts.

(II) Limit on MSA's designated. The portion of a metropolitan statistical area which may be designated for purposes of this subparagraph shall not exceed an area having 20 percent of the population of such metropolitan statistical area.

(III) Determination of areas. For purposes of this clause, each metropolitan statistical area shall be treated as a separate area and all nonmetropolitan areas in a State shall be treated as one area.

(iii) Difficult development areas.

(I) In general. The term “difficult development areas” means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income.

(II) Limit on areas designated. The portions of metropolitan statistical areas which may be designated for purposes of this subparagraph shall not exceed an aggregate area having 20 percent of the population of such metropolitan statistical areas. A comparable rule shall apply to nonmetropolitan areas.

(iv) Special rules and definitions. For purposes of this subparagraph —

(I) population shall be determined on the basis of the most recent decennial census for which data are available,

(II) area median gross income shall be determined in accordance with subsection (g)(4),

(III) the term “metropolitan statistical area” has the same meaning as when used in section 143(k)(2)(B), and

(IV) the term “nonmetropolitan area” means any county (or portion thereof) which is not within a metropolitan statistical area.

(v) Buildings designated by State housing credit agency. Any building which is designated by the State housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project shall be treated for purposes of this subparagraph as located in a difficult development area which is designated for purposes of this subparagraph. The preceding sentence shall not apply to any building if paragraph (1) of subsection (h) does not apply to any portion of the eligible basis of such building by reason of paragraph (4) of such subsection.

**(6) Credit allowable for certain buildings acquired during 10-year period described in paragraph (2)(B)(ii).**

(A) In general. Paragraph (2)(B)(ii) shall not apply to any federally- or State-assisted building.

(B) Buildings acquired from insured depository institutions in default. On application by the taxpayer, the Secretary may waive paragraph (2)(B)(ii) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution.

(C) Federally- or State-assisted building. For purposes of this paragraph —

(i) Federally-assisted building. The term “federally-assisted building” means any building which is substantially assisted, financed, or operated under section 8 of the United States Housing Act of 1937, section 221(d)(3), 221(d) (4), or 236 of the National Housing Act, section 515 of the Housing Act of 1949, or any other housing program administered by the Department of Housing and Urban Development or by the Rural Housing Service of the Department of Agriculture.

(ii) State-assisted building. The term “State-assisted building” means any building which is substantially assisted, financed, or operated under any State law similar in purposes to any of the laws referred to in clause (i).

**(7) Acquisition of building before end of prior compliance period.**

(A) In general. Under regulations prescribed by the Secretary, in the case of a building described in subparagraph (B) (or interest therein) which is acquired by the taxpayer—

(i) paragraph (2)(B) shall not apply, but

(ii) the credit allowable by reason of subsection (a) to the taxpayer for any period after such acquisition shall be equal to the amount of credit which would have been allowable under subsection (a) for such period to the prior owner referred to in subparagraph (B) had such owner not disposed of the building.

(B) Description of building. A building is described in this subparagraph if—

- (i) a credit was allowed by reason of subsection (a) to any prior owner of such building, and
- (ii) the taxpayer acquired such building before the end of the compliance period for such building with respect to such prior owner (determined without regard to any disposition by such prior owner).

**(e) Rehabilitation expenditures treated as separate new building.**

**(1) In general.**

Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building.

**(2) Rehabilitation expenditures.**

For purposes of paragraph (1) —

(A) In general. The term “rehabilitation expenditures” means amounts chargeable to capital account and incurred for property (or additions or improvements to property) of a character subject to the allowance for depreciation in connection with the rehabilitation of a building.

(B) Cost of acquisition, etc, not included. Such term does not include the cost of acquiring any building (or interest therein) or any amount not permitted to be taken into account under paragraph (3) or (4) of subsection (d).

**(3) Minimum expenditures to qualify.**

(A) In general. Paragraph (1) shall apply to rehabilitation expenditures with respect to any building only if—

- (i) the expenditures are allocable to 1 or more low-income units or substantially benefit such units, and
- (ii) the amount of such expenditures during any 24-month period meets the requirements of whichever of the following subclauses requires the greater amount of such expenditures:

(I) The requirement of this subclause is met if such amount is not less than 20 percent of the adjusted basis of the building (determined as of the 1st day of such period and without regard to paragraphs (2) and (3) of section 1016(a)).

(II) The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the number of low-income units in the building, is \$6,000 or more.

(B) Exception from 10 percent rehabilitation. In the case of a building acquired by the taxpayer from a governmental unit, at the election of the taxpayer, subparagraph (A)(ii)(I) shall not apply and the credit under this section for such rehabilitation expenditures shall be determined using the percentage applicable under subsection (b)(2)(B)(ii).

(C) Date of determination. The determination under subparagraph (A) shall be made as of the close of the first taxable year in the credit period with respect to such expenditures.

(D) Inflation adjustment. In the case of any expenditures which are treated under paragraph (4) as placed in service during any calendar year after 2009, the \$6,000 amount in subparagraph (A)(ii)(II) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 2008” for “calendar year 1992” in subparagraph (B) thereof.

Any increase under the preceding sentence which is not a multiple of \$100 shall be rounded to the nearest multiple of \$100.

**(4) Special rules.**

For purposes of applying this section with respect to expenditures which are treated as a separate building by reason of this subsection —

(A) such expenditures shall be treated as placed in service at the close of the 24-month period referred to in paragraph (3)(A), and

(B) the applicable fraction under subsection (c)(1) shall be the applicable fraction for the building (without regard to paragraph (1) ) with respect to which the expenditures were incurred.

Nothing in subsection (d)(2) shall prevent a credit from being allowed by reason of this subsection.

**(5) No double counting.**

Rehabilitation expenditures may, at the election of the taxpayer, be taken into account under this subsection or subsection (d)(2)(A)(i) but not under both such subsections.

**(6) Regulations to apply subsection with respect to group of units in building.**

The Secretary may prescribe regulations, consistent with the purposes of this subsection, treating a group of units with respect to which rehabilitation expenditures are incurred as a separate new building.

**(f) Definition and special rules relating to credit period.**

**(1) Credit period defined.**

For purposes of this section, the term “credit period” means, with respect to any building,

the period of 10 taxable years beginning with—

(A) the taxable year in which the building is placed in service, or

(B) at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building as of the close of the first year of such period. The election under subparagraph (B), once made, shall be irrevocable.

**(2) Special rule for 1st year of credit period.**

(A) In general. The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by substituting for the applicable fraction under subsection (c)(1) the fraction—

(i) the numerator of which is the sum of the applicable fractions determined under subsection (c)(1) as of the close of each full month of such year during which such building was in service, and

(ii) the denominator of which is 12.

(B) Disallowed first year credit allowed in 11th year. Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the first taxable year of the credit period shall be allowable under subsection (a) for the first taxable year following the credit period.

**(3) Determination of applicable percentage with respect to increases in qualified basis after first year of credit period.**

(A) In general. In the case of any building which was a qualified low-income building as of the close of the first year of the credit period, if—

(i) as of the close of any taxable year in the compliance period (after the first year of the credit period) the qualified basis of such building exceeds

(ii) the qualified basis of such building as of the close of the 1st year of the credit period, the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to  $\frac{2}{3}$  of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

(B) first year computation applies. A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the first year of such increase.

**(4) Dispositions of property.**

If a building (or an interest therein) is disposed of during any year for which credit is allowable under subsection (a), such credit shall be allocated between the parties on the basis of the number of days during such year the building (or interest) was held by each. In

any such case, proper adjustments shall be made in the application of subsection (j).

**(5) Credit period for existing buildings not to begin before rehabilitation credit allowed.**

(A) In general. The credit period for an existing building shall not begin before the first taxable year of the credit period for rehabilitation expenditures with respect to the building.

(B) Acquisition credit allowed for certain buildings not allowed a rehabilitation credit.

(i) In general. In the case of a building described in clause (ii) —

(I) subsection (d)(2)(B)(iv) shall not apply, and

(II) the credit period for such building shall not begin before the taxable year which would be the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building under the modifications described in clause (ii)(II).

(ii) Building described. A building is described in this clause if—

(I) a waiver is granted under subsection (d)(6)(C) with respect to the acquisition of the building, and

(II) a credit would be allowed for rehabilitation expenditures with respect to such building if subsection (e)(3)(A)(ii)(I) did not apply and if the dollar amount in effect under subsection (e)(3)(A)(ii)(II) were two-thirds of such amount.

**(g) Qualified low-income housing project.**

For purposes of this section —

**(1) In general.**

The term “qualified low-income housing project” means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 test. The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 test. The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, shall be irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes

other than residential rental purposes.

**(2) Rent-restricted units.**

(A) In general. For purposes of paragraph (1), a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 30 percent of the imputed income limitation applicable to such unit. For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project.

(B) Gross rent. For purposes of subparagraph (A), gross rent—

(i) does not include any payment under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupants thereof),

(ii) includes any utility allowance determined by the Secretary after taking into account such determinations under Section 8 of the United States Housing Act of 1937,

(iii) does not include any fee for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services, and

(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.

For purposes of clause (iii), the term “supportive service” means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (i)(3)(B)(iii), such term includes any service provided to assist tenants in locating and retaining permanent housing.

(C) Imputed income limitation applicable to unit. For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

(i) In the case of a unit which does not have a separate bedroom, 1 individual.

(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii).

(D) Treatment of units occupied by individuals whose incomes rise above limit.

(i) In general. Except as provided in clause (ii), notwithstanding an increase in the income of the occupants of a low-income unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a low-income unit if the income of such occupants initially met such income limitation and such unit continues to be rent-restricted.

(ii) Next available unit must be rented to low-income tenant if income rises above 140 percent of income limit. If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1), clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation. In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting "170 percent" for "140 percent" and by substituting "any low-income unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income" for "any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation."

(E) Units where federal rental assistance is reduced as tenant's income increases. If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made.

**(3) Date for meeting requirements.**

(A) In general. Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the first year of the credit period for such building.

(B) Buildings which rely on later buildings for qualification.

(i) In general. In determining whether a building (hereinafter in this subparagraph referred to as the “prior building”) is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

(ii) Treatment of elected buildings. In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

(iii) Date prior building is treated as placed in service. For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

(C) Special rule. A building—

(i) other than the first building placed in service as part of a project, and

(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building, shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service.

(D) Projects with more than one building must be identified. For purposes of this section, a project shall be treated as consisting of only one building unless, before the close of the first calendar year in the project period (as defined in subsection (h)(1)(F)(ii) ), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

**(4) Certain rules made applicable.** Paragraphs (2) (other than subparagraph (A) shall have the meaning given such term by paragraph (2)(B) of this subsection thereof ), (3), (4), (5),

(6), and (7) of section 142(d) , and section 6652(j), shall apply for purposes of determining whether any project is a qualified low-income housing project and whether any unit is a low-income unit; except that, in applying such provisions for such purposes, the term “gross rent”

**(5) Election to treat building after compliance period as not part of a project.** For purposes of this section, the taxpayer may elect to treat any building as not part of a qualified low-income housing project for any period beginning after the compliance period for such building.

**(6) Special rule where *de minimis* equity contribution.** Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a *de minimis* amount to be held toward the purchase by such occupant of a residential unit in such project if—

(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted.

**(7) Scattered site projects.** Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units.

**(8) Waiver of certain *de minimis* errors and recertifications.**

On application by the taxpayer, the Secretary may waive—

(A) any recapture under subsection (j) in the case of any *de minimis* error in complying with paragraph (1), or

(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants.

**(9) Clarification of general public use requirement.** A project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants—

(A) with special needs,

(B) who are members of a specified group under a Federal program or State program or policy that supports housing for such a specified group, or

(C) who are involved in artistic or literary activities.

**(h) Limitation on aggregate credit allowable with respect to projects located in a state.**

**(1) Credit may not exceed credit amount allocated to building.**

(A) In general. The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

(B) Time for making allocation. Except in the case of an allocation which meets the requirements of subparagraph (C), (D), (E), or (F) an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

(C) Exception where binding commitment. An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

(D) Exception where increase in qualified basis.

(i) In general. An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will first apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

(ii) Limitation. The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

(I) the qualified basis of such building as of the close of the first taxable year to which such allocation will apply, over

(II) the qualified basis of such building as of the close of the first taxable year to which the most recent prior housing credit allocation with respect to such building applied.

(iii) Housing credit dollar amount reduced by full allocation. Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2).

(E) Exception where 10 percent of cost incurred.

(i) In general. An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which

the allocation is made.

(ii) **Qualified building.** For purposes of clause (i), the term “qualified building” means any building which is part of a project if the taxpayer's basis in such project (as of the date which is one year after the date that the allocation was made) is more than 10 percent of the taxpayer's reasonably expected basis in such project (as of the close of the second calendar year referred to in clause (i)). Such term does not include any existing building unless a credit is allowable under subsection (e) for rehabilitation expenditures paid or incurred by the taxpayer with respect to such building for a taxable year ending during the second calendar year referred to in clause (i) or the prior taxable year.

**(F) Allocation of credit on a project basis.**

(i) In general. In the case of a project which includes (or will include) more than one building, an allocation meets the requirements of this subparagraph if—

(I) the allocation is made to the project for a calendar year during the project period,

(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is placed in service.

(ii) **Project period.** For purposes of clause (i), the term “project period” means the period—

(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

(II) ending with the calendar year the last building is placed in service as part of such project.

**(2) Allocated credit amount to apply to all taxable years ending during or after credit allocation year.**

Any housing credit dollar amount allocated to any building for any calendar year—

(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

**(3) Housing credit dollar amount for agencies.**

(A) In general. The aggregate housing credit dollar amount which a housing credit agency may allocate for any calendar year is the portion of the State housing credit ceiling allocated under this paragraph for such calendar year to such agency.

(B) State ceiling initially allocated to state housing credit agencies. Except as provided in subparagraphs (D) and (E), the State housing credit ceiling for each calendar year shall be allocated to the housing credit agency of such State. If there is more than one housing credit agency of a State, all such agencies shall be treated as a single agency.

(C) State housing credit ceiling. The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

(ii) the greater of—

(I) \$1.75 (\$1.50 for 2001) multiplied by the State population, or

(II) \$2,000,000,

(iii) the amount of State housing credit ceiling returned in the calendar year, plus

(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any project which fails to meet the 10 percent test under paragraph (1) (E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified low-income housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is cancelled by mutual consent of the housing credit agency and the allocation recipient.

(D) Unused housing credit carryovers allocated among certain states.

(i) In general. The unused housing credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

(ii) Unused housing credit carryover. For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of—

(I) the unused State housing credit ceiling for the year preceding such year, over

(II) the aggregate housing credit dollar amount allocated for such year.

(iii) Formula for allocation of unused housing credit carryovers among qualified states. The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

(iv) Qualified State. For purposes of this subparagraph, the term "qualified State" means, with respect to a calendar year, any State—

(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

(E) Special rule for states with constitutional home rule cities. For purposes of this subsection —

(i) In general. The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State housing credit ceiling for such calendar year as—

(I) the population of such city bears to

(II) the population of the entire State.

(ii) Coordination with other allocations. In the case of any State which contains one or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

(iii) Constitutional home rule city. For purposes of this paragraph, the term "constitutional home rule city" has the meaning given such term by section 146(d)(3)(C).

(F) State may provide for different allocation. Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

(G) Population. For purposes of this paragraph, population shall be determined in accordance with section 146(j).

(H) Cost-of-living adjustment.

(i) In general. In the case of a calendar year after 2002, the \$2,000,000 and \$1.75 amounts in subparagraph (C) shall each be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 2001” for “calendar year 1992” in subparagraph (B) thereof.

(ii) Rounding.

(I) In the case of the \$2,000,000 amount, any increase under clause (i) which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000.

(II) In the case of the \$1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.

(I) Increase in State housing credit ceiling for 2008 and 2009. In the case of calendar years 2008 and 2009—

(i) the dollar amount in effect under subparagraph (C)(ii)(I) for such calendar year (after any increase under subparagraph (H)) shall be increased by \$0.20, and

(ii) the dollar amount in effect under subparagraph (C)(ii)(II) for such calendar year (after any increase under subparagraph (H)) shall be increased by an amount equal to 10 percent of such dollar amount (rounded to the next lowest multiple of \$5,000).

**(4) Credit for buildings financed by tax-exempt bonds subject to volume cap not taken into account.**

(A) In general. Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 if—

(i) such obligation is taken into account under section 146, and

(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing or such financing is refunded as described in section 146(i)(6).

(B) Special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap. For purposes of subparagraph (A), if 50 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

**(5) Portion of state ceiling set-aside for certain projects involving qualified nonprofit organizations.**

(A) In general. Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified low-income housing projects described in subparagraph (B).

(B) Projects involving qualified nonprofit organizations. For purposes of subparagraph (A), a qualified low-income housing project is described in this subparagraph if a qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period.

(C) Qualified nonprofit organization. For purposes of this paragraph, the term “qualified nonprofit organization” means any organization if—

(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a),

(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and

(iii) one of the exempt purposes of such organization includes the fostering of low-income housing.

(D) Treatment of certain subsidiaries.

(i) In general. For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

(ii) Qualified corporation. For purposes of clause (i), the term “qualified corporation” means any corporation if 100 percent of the stock of such corporation is held by one or more qualified nonprofit organizations at all times during the period such corporation is in existence.

(E) State may not override set-aside. Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

**(6) Buildings eligible for credit only if minimum long-term commitment to low-income housing.**

(A) In general. No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year.

(B) Extended low-income housing commitment. For purposes of this paragraph, the term

“extended low-income housing commitment” means any agreement between the taxpayer and the housing credit agency—

(i) which requires that the applicable fraction (as defined in subsection (c)(1) ) for the building for each taxable year in the extended use period will not be less than the applicable fraction specified in such agreement and which prohibits the actions described in subclauses (I) and (II) of subparagraph (E)

(ii),

(ii) which allows individuals who meet the income limitation applicable to the building under subsection (g) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement and prohibitions of clause (i),

(iii) which prohibits the disposition to any person of any portion of the building to which such agreement applies unless all of the building to which such agreement applies is disposed of to such person,

(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder,

(v) which is binding on all successors of the taxpayer, and

(vi) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

(C) Allocation of credit may not exceed amount necessary to support commitment.

(i) In general. The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building, including any increase in such fraction pursuant to the application of subsection (f)(3) if such increase is reflected in an amended low-income housing commitment.

(ii) Buildings financed by tax-exempt bonds. If paragraph (4) applies to any building the amount of credit allowed in any taxable year may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building. Such commitment may be amended to increase such fraction.

(D) Extended use period. For purposes of this paragraph, the term “extended use period” means the period—

(i) beginning on the first day in the compliance period on which such building is part of a qualified low-income housing project, and

(ii) ending on the later of—

(I) the date specified by such agency in such agreement, or

(II) the date which is 15 years after the close of the compliance period.

(E) Exceptions if foreclosure or if no buyer willing to maintain low-income status.

(i) In general. The extended use period for any building shall terminate—

(I) on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure) unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period, or

(II) on the last day of the period specified in subparagraph (I) if the housing credit agency is unable to present during such period a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building.

Subclause (II) shall not apply to the extent more stringent requirements are provided in the agreement or in State law.

(ii) Eviction, etc. of existing low-income tenants not permitted. The termination of an extended use period under clause (i) shall not be construed to permit before the close of the three-year period following such termination—

(I) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or

(II) any increase in the gross rent with respect to such unit not otherwise permitted under this section.

(F) Qualified contract. For purposes of subparagraph (E), the term “qualified contract” means a bona fide contract to acquire (within a reasonable period after the contract is entered into) the non low-income portion of the building for fair market value and the low-income portion of the building for an amount not less than the applicable fraction (specified in the extended low-income housing commitment) of—

(i) the sum of—

(I) the outstanding indebtedness secured by, or with respect to, the building,

(II) the adjusted investor equity in the building, plus

(III) other capital contributions not reflected in the amounts described in subclause (I) or (II), reduced by

(ii) cash distributions from (or available for distribution from) the project.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the manipulation of the amount determined under the preceding sentence.

(G) Adjusted investor equity.

(i) In general. For purposes of subparagraph (E), the term “adjusted investor equity” means, with respect to any calendar year, the aggregate amount of cash taxpayers invested with respect to the project increased by the amount equal to—

(I) such amount, multiplied by

(II) the cost-of-living adjustment for such calendar year, determined under section 1(f)(3) by substituting the base calendar year for “calendar year 1987.”

An amount shall be taken into account as an investment in the project only to the extent there was an obligation to invest such amount as of the beginning of the credit period and to the extent such amount is reflected in the adjusted basis of the project.

(ii) Cost-of-living increases in excess of 5 percent not taken into account. Under regulations prescribed by the Secretary, if the CPI for any calendar year (as defined in section 1(f)(4)) exceeds the CPI for the preceding calendar year by more than 5 percent, the CPI for the base calendar year shall be increased such that such excess shall never be taken into account under clause (i).

(iii) Base calendar year. For purposes of this subparagraph, the term “base calendar year” means the calendar year with or within which the 1st taxable year of the credit period ends.

(H) Low-income portion. For purposes of this paragraph, the low-income portion of a building is the portion of such building equal to the applicable fraction specified in the extended low-income housing commitment for the building.

(I) Period for finding buyer. The period referred to in this subparagraph is the one-year period beginning on the date (after the 14th year of the compliance period) the taxpayer submits a written request to the housing credit agency to find a person to acquire the taxpayer's interest in the low-income portion of the building.

(J) Effect of noncompliance. If, during a taxable year, there is a determination that an extended low-income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

(K) Projects which consist of more than one building. The application of this paragraph to projects which consist of more than one building shall be made under regulations prescribed by the Secretary.

**(7) Special rules.**

(A) Building must be located within jurisdiction of credit agency. A housing credit agency may allocate its aggregate housing credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

(B) Agency allocations in excess of limit. If the aggregate housing credit dollar amounts allocated by a housing credit agency for any calendar year exceed the portion of the State housing credit ceiling allocated to such agency for such calendar year, the housing credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

(C) Credit reduced if allocated credit dollar amount is less than credit which would be allowable without regard to placed in service convention, etc.

(i) In general. The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

(ii) Determination of percentage. For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

(I) the housing credit dollar amount allocated to such building bears to

(II) the credit amount determined in accordance with clause (iii).

(iii) Determination of credit amount. The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

(II) subsection (f)(3)(A) were applied without regard to “the percentage equal to  $\frac{2}{3}$  of.”

(D) Housing credit agency to specify applicable percentage and maximum qualified basis. In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection.

**(8) Other definitions.**

For purposes of this subsection —

(A) Housing credit agency. The term “housing credit agency” means any agency authorized to carry out this subsection.

(B) Possessions treated as states. The term “State” includes a possession of the United States.

**(i) Definitions and special rules.**

For purposes of this section —

**(1) Compliance period.**

The term “compliance period” means, with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

**(2) Determination of whether building is federally subsidized.**

(A) In general. Except as otherwise provided in this paragraph, for purposes of subsection (b)(1), a new building shall be treated as federally subsidized for any taxable year if, at any time during such taxable year or any prior taxable year, there is or was outstanding any obligation the interest on which is exempt from tax under section 103 the proceeds of which are or were used (directly or indirectly) with respect to such building or the operation thereof.

(B) Election to reduce eligible basis by proceeds of obligations. A tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d) the proceeds of such obligation.

(C) Special rule for subsidized construction financing. Subparagraph (A) shall not apply to any tax-exempt obligation used to provide construction financing for any building if—

- (i) such obligation (when issued) identified the building for which the proceeds of such obligation would be used, and
- (ii) such obligation is redeemed before such building is placed in service.

**(3) Low-income unit.**

(A) In general. The term “low-income unit” means any unit in a building if—

- (i) such unit is rent-restricted (as defined in subsection (g)(2)), and
- (ii) the individuals occupying such unit meet the income limitation applicable under subsection (g)(1) to the project of which such building is a part.

(B) Exceptions.

- (i) In general. A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis.

(ii) Suitability for occupancy. For purposes of clause (i), the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

(iii) Transitional housing for homeless. For purposes of clause (i), a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building—

(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on the date of the enactment of this clause) to independent living within 24 months, and

(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (h)(5)) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

(iv) Single-room occupancy units. For purposes of clause (i), a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.

(C) Special rule for buildings having 4 or fewer units. In the case of any building which has 4 or fewer residential rental units, no unit in such building shall be treated as a low-income unit if the units in such building are owned by—

(i) any individual who occupies a residential unit in such building, or

(ii) any person who is related (as defined in subsection (d)(2)(D)(iii) ) to such individual.

(D) Certain students not to disqualify unit. A unit shall not fail to be treated as a low-income unit merely because it is occupied—

(i) by an individual who is—

(I) a student and receiving assistance under title IV of the Social Security Act,

(II) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or

(III) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

(ii) entirely by full-time students if such students are—

(I) single parents and their children and such parents are not dependents (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children, or[.]

(II) married and file a joint return.

(E) Owner-occupied buildings having 4 or fewer units eligible for credit where development plan.

(i) In general. Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (h)(5)(C)).

(ii) Limitation on credit. In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

(iii) Certain unrented units treated as owner-occupied. In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the first day it is not rented.

**(4) New building.**

The term “new building” means a building the original use of which begins with the taxpayer.

**(5) Existing building.**

The term “existing building” means any building which is not a new building.

**(6) Application to estates and trusts.**

In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

**(7) Impact of tenant's right of 1st refusal to acquire property.**

(A) In general. No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified low-income building merely by reason of a right of 1st refusal held by the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

(B) Minimum purchase price. For purposes of subparagraph (A), the minimum purchase price under this subparagraph is an amount equal to the sum of—

(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to

the tenants), and

(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii).

**(8) Treatment of rural projects.**

For purposes of this section, in the case of any project for residential rental property located in a rural area (as defined in section 520 of the Housing Act of 1949), any income limitation measured by reference to area median gross income shall be measured by reference to the greater of area median gross income or national non-metropolitan median income. The preceding sentence shall not apply with respect to any building if paragraph (1) of section 42(h) does not apply by reason of paragraph (4) thereof to any portion of the credit determined under this section with respect to such building.

**(9) Coordination with low-income housing grants.**

(A) Reduction in state housing credit ceiling for low-income housing grants received in 2009. For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2009 shall each be reduced by so much of such amount as is taken into account in determining the amount of any grant to such State under section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

(B) Special rule for basis. Basis of a qualified low-income building shall not be reduced by the amount of any grant described in subparagraph (A).

**(j) Recapture of credit.**

**(1) In general.**

If—

(A) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than

(B) the amount of such basis as of the close of the preceding taxable year, then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount.

**(2) Credit recapture amount.**

For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if the accelerated portion of the credit allowable by reason of this section were not allowed for all prior taxable years with respect to the excess of the amount described in paragraph (1)(B) over the amount

described in paragraph (1)(A), plus

(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

**(3) Accelerated portion of credit.**

For purposes of paragraph (2), the accelerated portion of the credit for the prior taxable years with respect to any amount of basis is the excess of—

(A) the aggregate credit allowed by reason of this section (without regard to this subsection ) for such years with respect to such basis, over

(B) the aggregate credit which would be allowable by reason of this section for such years with respect to such basis if the aggregate credit which would (but for this subsection ) have been allowable for the entire compliance period were allowable ratably over 15 years.

**(4) Special rules.**

(A) Tax benefit rule. The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) Only basis for which credit allowed taken into account. Qualified basis shall be taken into account under paragraph (1)(B) only to the extent such basis was taken into account in determining the credit under subsection (a) for the preceding taxable year referred to in such paragraph.

(C) No recapture of additional credit allowable by reason of subsection (f)(3). Paragraph (1) shall apply to a decrease in qualified basis only to the extent such decrease exceeds the amount of qualified basis with respect to which a credit was allowable for the taxable year referred to in paragraph (1)(B) by reason of subsection (f)(3).

(D) No credits against tax. Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

(E) No recapture by reason of casualty loss. The increase in tax under this subsection shall not apply to a reduction in qualified basis by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

(F) No recapture where *de minimis* changes in floor space. The Secretary may provide

that the increase in tax under this subsection shall not apply with respect to any building if—

- (i) such increase results from a *de minimis* change in the floor space fraction under subsection (c)(1), and
- (ii) the building is a qualified low-income building after such change.

**(5) Certain partnerships treated as the taxpayer.**

(A) In general. For purposes of applying this subsection to a partnership to which this paragraph applies—

- (i) such partnership shall be treated as the taxpayer to which the credit allowable under subsection (a) was allowed,
- (ii) the amount of such credit allowed shall be treated as the amount which would have been allowed to the partnership were such credit allowable to such partnership,
- (iii) paragraph (4)(A) shall not apply, and
- (iv) the amount of the increase in tax under this subsection for any taxable year shall be allocated among the partners of such partnership in the same manner as such partnership's taxable income for such year is allocated among such partners.

(B) Partnerships to which paragraph applies. This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply.

(C) Special rules.

(i) Husband and wife treated as one partner. For purposes of subparagraph (B)(i), a husband and wife (and their estates) shall be treated as one partner.

(ii) Election irrevocable. Any election under subparagraph (B), once made, shall be irrevocable.

**(6) No recapture on disposition of building which continues in qualified use.**

(A) In general. The increase in tax under this subsection shall not apply solely by reason of the disposition of a building (or an interest therein) if it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

(B) Statute of limitations. If a building (or an interest therein) is disposed of during any taxable year and there is any reduction in the qualified basis of such building which results in an increase in tax under this subsection for such taxable or any subsequent taxable year, then—

(i) the statutory period for the assessment of any deficiency with respect to such increase in tax shall not expire before the expiration of three years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of such reduction in qualified basis, and

(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

**(k) Application of at-risk rules.**

For purposes of this section —

**(1) In general.** Except as otherwise provided in this subsection, rules similar to the rules of section 49(a) (1) (other than subparagraphs (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2), and section 49(b)(1) shall apply in determining the qualified basis of any building in the same manner as such sections apply in determining the credit base of property.

**(2) Special rules for determining qualified person.**

For purposes of paragraph (1) —

(A) In general. If the requirements of subparagraphs (B), (C), and (D) are met with respect to any financing borrowed from a qualified nonprofit organization (as defined in subsection (h)(5)), the determination of whether such financing is qualified commercial financing with respect to any qualified low-income building shall be made without regard to whether such organization—

(i) is actively and regularly engaged in the business of lending money, or

(ii) is a person described in section 49(a)(1)(D)(iv)(II).

(B) Financing secured by property. The requirements of this subparagraph are met with respect to any financing if such financing is secured by the qualified low-income building, except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

(ii) the proceeds from the financing (if any) are applied to acquire or improve such building.

(C) Portion of building attributable to financing. The requirements of this subparagraph are met with respect to any financing for any taxable year in the compliance period if, as of the close of such taxable year, not more than 60 percent of the eligible basis of the qualified low-income building is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

(D) Repayment of principal and interest. The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid on or before the earliest of—

- (i) the date on which such financing matures,
- (ii) the 90th day after the close of the compliance period with respect to the qualified low-income building, or
- (iii) the date of its refinancing or the sale of the building to which such financing relates.

In the case of a qualified nonprofit organization which is not described in section 49(a)(1)(D)(iv)(II) with respect to a building, clause (ii) of this subparagraph shall be applied as if the date described therein were the 90th day after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the close of a compliance period with respect thereto.

**(3) Present value of financing.** If the rate of interest on any financing described in paragraph (2)(A) is less than the rate which is 1 percentage point below the applicable Federal rate as of the time such financing is incurred, then the qualified basis (to which such financing relates) of the qualified low-income building shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate. For purposes of the preceding sentence, the rate of interest on any financing shall be determined by treating interest to the extent of government subsidies as not payable.

**(4) Failure to fully repay.**

(A) In general. To the extent that the requirements of paragraph (2)(D) are not met, then the taxpayer's tax under this chapter for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such building, increased by an amount of interest for the period—

- (i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the 1st taxable year for which such credit was allowable, and
- (ii) ending with the due date for the taxable year in which such failure occurs, determined by using the underpayment rate and method under section 6621.

(B) Applicable portion. For purposes of subparagraph (A), the term “applicable portion” means the aggregate decrease in the credits allowed to a taxpayer under section 38 for all prior taxable years which would have resulted if the eligible basis of the building were reduced by the amount of financing which does not meet requirements of paragraph (2)(D).

(C) Certain rules to apply. Rules similar to the rules of subparagraphs (A) and (D) of subsection (j)(4) shall apply for purposes of this subsection.

**(l) Certifications and other reports to secretary.**

**(1) Certification with respect to first year of credit period.**

Following the close of the first taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

- (A) the taxable year, and calendar year, in which such building was placed in service,
- (B) the adjusted basis and eligible basis of such building as of the close of the first year of the credit period,
- (C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (h),
- (D) the election made under subsection (g) with respect to the qualified low-income housing project of which such building is a part, and
- (E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

**(2) Annual reports to the Secretary.**

The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

- (A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,
- (B) the information described in paragraph (1)(C) for the taxable year, and
- (C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefore.

**(3) Annual reports from housing credit agencies.**

Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

- (A) the amount of housing credit amount allocated to each building for such year,
- (B) sufficient information to identify each such building and the taxpayer with respect

thereto, and

(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefore.

**(m) Responsibilities of housing credit agencies.**

**(1) Plans for allocation of credit among projects.**

(A) In general. Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless—

(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,

(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project,

(iii) a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

(B) Qualified allocation plan. For purposes of this paragraph, the term “qualified allocation plan” means any plan—

(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

(ii) which also gives preference in allocating housing credit dollar amounts among selected projects to—

(I) projects serving the lowest income tenants,

(II) projects obligated to serve qualified tenants for the longest periods, and

(III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan, and

(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

(C) Certain selection criteria must be used. The selection criteria set forth in a qualified allocation plan must include—

- (i) project location,
- (ii) housing needs characteristics,
- (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan,
- (iv) sponsor characteristics,
- (v) tenant populations with special housing needs,
- (vi) public housing waiting lists,
- (vii) tenant populations of individuals with children,
- (viii) projects intended for eventual tenant ownership,
- (ix) the energy efficiency of the project, and
- (x) the historic nature of the project.

(D) Application to bond financed projects. Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.

**(2) Credit allocated to building not to exceed amount necessary to assure project feasibility.**

(A) In general. The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

(B) Agency evaluation. In making the determination under subparagraph (A), the housing credit agency shall consider—

- (i) the sources and uses of funds and the total financing planned for the project,

- (ii) any proceeds or receipts expected to be generated by reason of tax benefits,
- (iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries, and
- (iv) the reasonableness of the developmental and operational costs of the project.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas. Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

(C) Determination made—when credit amount applied for and when building placed in service.

(i) In general. A determination under subparagraph (A) shall be made as of each of the following times:

- (I) The application for the housing credit dollar amount.
- (II) The allocation of the housing credit dollar amount.
- (III) The date the building is placed in service.

(ii) Certification as to amount of other subsidies. Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

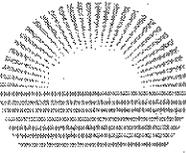
(D) Application to bond financed projects. Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B).

**(n) Regulations.**

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

- (1) dealing with—
  - (A) projects which include more than one building or only a portion of a building,
  - (B) buildings which are placed in service in portions,
- (2) providing for the application of this section to short taxable years,
- (3) preventing the avoidance of the rules of this section, and

(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.



**GDB**

# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



## ANNEX B

**QUALIFIED ALLOCATION  
PLAN 2012**

REV.  
DEC 2011

V.3.1 Potential Housing Demand by Regions

On a regional level, potential demand can be examined broken down by regions using the distributions of households by region. The following table provides a summary of potential housing demand by for the period 2008-2012 (see Table VIII).

**Table VIII**

<b>Potential Housing Demand by Region</b>					
<b>Regions</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Aguadilla	679	714	710	725	769
Arecibo	1,055	1,108	1,102	1,126	1,195
Bayamón	1,968	2,067	2,055	2,100	2,228
Caguas	1,027	1,078	1,072	1,095	1,162
Carolina	961	1,009	1,004	1,025	1,088
Fajardo	407	428	425	434	461
Guayama	357	375	373	381	406
Humacao	541	569	565	577	613
Mayagüez	942	990	984	1,005	1,067
Ponce	1,295	1,360	1,352	1,381	1,466
San Juan	1,713	1,799	1,789	1,828	1,939
<b>Puerto Rico</b>	<b>10,946</b>	<b>11,497</b>	<b>11,430</b>	<b>11,677</b>	<b>12,392</b>

Source: Estudios Técnicos, Inc.

As you can see, most potential regional housing demand is concentrated in the regions of Arecibo, Bayamón, Caguas, Carolina, Ponce and San Juan. In particular, Bayamón represents the regions with the biggest potential demand throughout the period.

Source:  
Demand for Housing  
2007-2012  
Prepared by:  
Estudios Técnicos, Inc.  
November 2007

The following municipalities make up the regions considered for regional analysis throughout the report:

Regions	Municipalities
Aguadilla	Aguada, Aguadilla, Isabela, Moca and San Sebastián
Arecibo	Arecibo, Barceloneta, Camuy, Ciales, Florida, Hatillo, Lares, Manatí, Quebradillas, Utuado
Bayamón	Barranquitas, Bayamón, Cataño, Comerío, Corozal, Dorado, Morovis, Naranjito, Orocovis, Toa Alta, Toa Baja, Vega Alta and Vega Baja
Caguas	Aguas Buenas, Aibonito, Caguas, Cayey, Cidra, Gurabo and San Lorenzo
Carolina	Canóvanas, Carolina, Loiza and Trujillo Alto
Fajardo	Ceiba, Culebra, Fajardo, Luquillo, Río Grande and Vieques
Guayama	Arroyo, Guayama, Maunabo, Patillas and Salinas
Humacao	Humacao, Juncos, Las Piedras, Naguabo and Yabucoa
Mayagüez	Añasco, Cabo Rojo, Hormigueros, Lajas, Las Marías, Maricao, Mayagüez, Rincón, Sabana Grande and San Germán
Ponce	Peñuelas, Ponce, Santa Isabel, Villalba and Yauco
San Juan	Guaynabo and San Juan

Source:  
Demand for Housing  
2007-2012  
Prepared by:  
Estudios Técnicos, Inc.  
November 2007



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX C

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

ANNEX C: INCOME AND RENT LIMITS 2012

ANNEX C

Region *		Studios	1 Br	2 Brs	3 Brs	4 Brs
<b>PUERTO RICO HOUSING FINANCE AUTHORITY</b>						
<b>LOW INCOME HOUSING TAX CREDIT PROGRAM</b>						
<b>Rent Restrictions</b>						
Effective Date: 1-Dec-11						
<b>Aguadilla-Isabela-San Sebastian</b>						
50% of Median Income	Rent	\$ 222	\$ 238	\$ 286	\$ 330	\$ 368
60% of Median Income	Rent	\$ 267	\$ 286	\$ 343	\$ 396	\$ 442
<b>Arecibo</b>						
50% of Median Income	Rent	\$ 235	\$ 251	\$ 302	\$ 348	\$ 387
60% of Median Income	Rent	\$ 282	\$ 302	\$ 363	\$ 418	\$ 465
<b>Barranquitas-Aibonito-Quebradillas</b>						
50% of Median Income	Rent	\$ 231	\$ 247	\$ 296	\$ 342	\$ 382
60% of Median Income	Rent	\$ 277	\$ 297	\$ 355	\$ 411	\$ 459
<b>Caguas</b>						
50% of Median Income	Rent	\$ 257	\$ 276	\$ 331	\$ 382	\$ 427
60% of Median Income	Rent	\$ 309	\$ 331	\$ 397	\$ 459	\$ 513
<b>Fajardo</b>						
50% of Median Income	Rent	\$ 267	\$ 286	\$ 343	\$ 396	\$ 442
60% of Median Income	Rent	\$ 321	\$ 343	\$ 412	\$ 476	\$ 531
<b>Guayama</b>						
50% of Median Income	Rent	\$ 235	\$ 251	\$ 302	\$ 348	\$ 388
60% of Median Income	Rent	\$ 282	\$ 302	\$ 363	\$ 418	\$ 466
<b>Mayaguez</b>						
50% of Median Income	Rent	\$ 253	\$ 271	\$ 326	\$ 376	\$ 420
60% of Median Income	Rent	\$ 304	\$ 326	\$ 391	\$ 451	\$ 504
<b>Ponce</b>						
50% of Median Income	Rent	\$ 271	\$ 290	\$ 348	\$ 403	\$ 450
60% of Median Income	Rent	\$ 325	\$ 348	\$ 418	\$ 483	\$ 540
<b>San German-Cabo Rojo</b>						
50% of Median Income	Rent	\$ 220	\$ 235	\$ 282	\$ 326	\$ 365
60% of Median Income	Rent	\$ 264	\$ 282	\$ 339	\$ 392	\$ 438
<b>San Juan-Guaynabo</b>						
50% of Median Income	Rent	\$ 283	\$ 303	\$ 363	\$ 420	\$ 468
60% of Median Income	Rent	\$ 340	\$ 364	\$ 436	\$ 504	\$ 562
<b>Yauco</b>						
50% of Median Income	Rent	\$ 217	\$ 233	\$ 280	\$ 322	\$ 360
60% of Median Income	Rent	\$ 261	\$ 279	\$ 336	\$ 387	\$ 432
<b>All Other (Nonmetropolitan)</b>						
50% of Median Income	Rent	\$ 217	\$ 233	\$ 280	\$ 322	\$ 360
60% of Median Income	Rent	\$ 261	\$ 279	\$ 336	\$ 387	\$ 432

\* See page 3 for the list of Municipalities within region.

**PUERTO RICO HOUSING FINANCE AUTHORITY  
LOW INCOME HOUSING TAX CREDIT PROGRAM**

**Effective Date: 1-Dec-11**

**Income Limits**

Persons per Family Region *	1	2	3	4	5
<b>Aguadilla-Isabela-San Sebastian</b>					
50% of Median Income      Income	\$ 8,900	\$10,200	\$11,450	\$12,700	\$ 13,750
60% of Median Income      Income	\$10,680	\$12,240	\$13,740	\$15,240	\$ 16,500
<b>Arecibo</b>					
50% of Median Income      Income	\$ 9,400	\$10,750	\$12,100	\$13,400	\$ 14,500
60% of Median Income      Income	\$11,280	\$12,900	\$14,520	\$16,080	\$ 17,400
<b>Barranquitas-Aibonito-Quebradillas</b>					
50% of Median Income      Income	\$ 9,250	\$10,550	\$11,850	\$13,150	\$ 14,250
60% of Median Income      Income	\$11,100	\$12,660	\$14,220	\$15,780	\$ 17,100
<b>Caguas</b>					
50% of Median Income      Income	\$10,300	\$11,800	\$13,250	\$14,700	\$ 15,900
60% of Median Income      Income	\$12,360	\$14,160	\$15,900	\$17,640	\$ 19,080
<b>Fajardo</b>					
50% of Median Income      Income	\$10,700	\$12,200	\$13,750	\$15,250	\$ 16,500
60% of Median Income      Income	\$12,840	\$14,640	\$16,500	\$18,300	\$ 19,800
<b>Guayama</b>					
50% of Median Income      Income	\$ 9,400	\$10,750	\$12,100	\$13,400	\$ 14,500
60% of Median Income      Income	\$11,280	\$12,900	\$14,520	\$16,080	\$ 17,400
<b>Mayaguez</b>					
50% of Median Income      Income	\$10,150	\$11,600	\$13,050	\$14,450	\$ 15,650
60% of Median Income      Income	\$12,180	\$13,920	\$15,660	\$17,340	\$ 18,780
<b>Ponce</b>					
50% of Median Income      Income	\$10,850	\$12,400	\$13,950	\$15,500	\$ 16,750
60% of Median Income      Income	\$13,020	\$14,880	\$16,740	\$18,600	\$ 20,100
<b>San German-Cabo Rojo</b>					
50% of Median Income      Income	\$ 8,800	\$10,050	\$11,300	\$12,550	\$ 13,600
60% of Median Income      Income	\$10,560	\$12,060	\$13,560	\$15,060	\$ 16,320
<b>San Juan-Guaynabo</b>					
50% of Median Income      Income	\$11,350	\$12,950	\$14,550	\$16,150	\$ 17,450
60% of Median Income      Income	\$13,620	\$15,540	\$17,460	\$19,380	\$ 20,940
<b>Yauco</b>					
50% of Median Income      Income	\$ 8,700	\$ 9,950	\$11,200	\$12,400	\$ 13,400
60% of Median Income      Income	\$10,440	\$11,940	\$13,440	\$14,880	\$ 16,080
<b>All Other (Nonmetropolitan)</b>					
50% of Median Income      Income	\$ 8,700	\$ 9,950	\$11,200	\$12,400	\$ 13,400
60% of Median Income      Income	\$10,440	\$11,940	\$13,440	\$14,880	\$ 16,080

\* See page 3 for the list of Municipalities within region.

**PUERTO RICO HOUSING FINANCE AUTHORITY  
 LOW INCOME HOUSING TAX CREDIT PROGRAM  
 Income and Rent Restrictions**

**Municipalities within Regions**  
 (as defined by HUD)

<b>REGION</b>	<b>MUNICIPALITIES</b>
<b>Aguadilla-Isabela-San Sebastian</b>	Aguada, Aguadilla, Añasco, Isabela, Lares, Moca, Rincon, San Sebastian
<b>Arecibo</b>	Arecibo, Camuy, Hatillo
<b>Barranquitas-Aibonito-Quebradillas</b>	Aibonito, Barranquitas, Ciales, Maunabo, Orocovis, Quebradillas
<b>Caguas</b>	Caguas, Cayey, Cidra, Gurabo, San Lorenzo
<b>Fajardo</b>	Ceiba, Fajardo, Luquillo
<b>Guayama</b>	Arroyo, Guayama, Patillas
<b>Mayagüez</b>	Hormigueros, Mayagüez
<b>Ponce</b>	Juana Díaz, Ponce, Villalba
<b>San German-Cabo Rojo</b>	Cabo Rojo, Lajas, Sabana Grande, San German
<b>San Juan-Guaynabo</b>	Aguas Buenas, Barceloneta, Bayamón, Canóvanas, Carolina, Cataño, Comerio, Corozal, Dorado, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loiza, Manatí, Morovis, Naguabo, Naranjito, Río Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja, Yabucoa
<b>Yauco</b>	Guanica, Guayanilla, Peñuelas, Yauco
<b>All Other (Nonmetropolitan Area)</b>	Adjuntas, Coamo, Culebra, Jayuya, Las Marías, Maricao, Salinas, Santa Isabel, Utuado, Vieques



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX D

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

U.S.C. 1448(b). Under both procedures, CBP Forms 3461 and 3461 ALT are the source documents in the packages presented to Customs and Border Protection (CBP). The information collected on CBP Forms 3461 and 3461 ALT allow CBP officers to verify that the information regarding the consignee and shipment is correct and that a bond is on file with CBP. CBP also uses these forms to close out the manifest and to establish the obligation to pay estimated duties in the time period prescribed by law or regulation. CBP Form 3461 is also a delivery authorization document and is given to the importing carrier to authorize the release of the merchandise.

CBP Forms 3461 and 3461 ALT are provided for by 19 CFR parts 141 and 142. These forms are accessible at: <http://www.cbp.gov/xp/cgov/toolbox/forms/>.

**Current Actions:** CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

**Type of Review:** Extension (without change).

**Affected Public:** Businesses.

**CBP Form 3461**

**Estimated Number of Respondents:** 6,529.

**Estimated Number of Responses per Respondent:** 1,411.

**Estimated Total Annual Responses:** 9,210,160.

**Estimated Time per Response:** 15 minutes.

**Estimated Total Annual Burden Hours:** 2,302,540.

**CBP Form 3461 ALT**

**Estimated Number of Respondents:** 6,795.

**Estimated Number of Responses per Respondent:** 1,390.

**Estimated Total Annual Responses:** 9,444,069.

**Estimated Time per Response:** 3 minutes.

**Estimated Total Annual Burden Hours:** 472,203.

Dated: October 24, 2011.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2011-27875 Filed 10-26-11; 8:45 am]

BILLING CODE 9111-14-P

**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**Agency Information Collection Activities: Prior Disclosure**

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0074.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning Prior Disclosure. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

**DATES:** Written comments should be received on or before December 27, 2011, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229-1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229-1177, at (202) 325-0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments

will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Prior Disclosure.

**OMB Number:** 1651-0074.

**Form Number:** None.

**Abstract:** The Prior Disclosure program establishes a method for a potential violator to disclose to CBP that they have committed an error or a violation with respect to the legal requirements of entering merchandise into the United States, such as underpaid tariffs or duties or misclassified merchandise. The procedure for making a prior disclosure is set forth in 19 CFR 162.74 which requires that respondents submit information about the merchandise involved, a specification of the false statements or omissions, and what the true and accurate information should be. A valid prior disclosure will entitle the disclosing party to the reduced penalties pursuant to 19 U.S.C. 1592(c)(4).

**Current Actions:** CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

**Type of Review:** Extension (without change).

**Affected Public:** Businesses.

**Estimated Number of Respondents:** 3,500.

**Estimated Number of Annual Responses:** 3,500.

**Estimated Time per Response:** 1 hour.

**Estimated Total Annual Burden Hours:** 3,500.

Dated: October 24, 2011.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2011-27876 Filed 10-26-11; 8:45 am]

BILLING CODE 9111-14-P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5575-N-01]

**Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2012**

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** This document designates "Difficult Development Areas" (DDAs) for purposes of the Low-Income Housing Tax Credit (LIHTC) under Section 42 of the Internal Revenue Code



of 1986 (IRC) (26 U.S.C. 42). The United States Department of Housing and Urban Development (HUD) makes new DDA designations annually. The designations of "Qualified Census Tracts" (QCTs) under IRC Section 42 published October 6, 2009, remain in effect.

In addition to announcing the 2012 DDA designations, HUD seeks public comment on whether it should use Small Area Fair Market Rents (FMRs), rather than metropolitan-area FMRs, in future designations of metropolitan DDAs.

**DATES:** *Comment Due Date:* December 27, 2011.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit comments, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between

8 a.m. and 5 p.m. eastern time weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on how areas are designated and on geographic definitions, contact Michael K. Hollar, Senior Economist, Economic Development and Public Finance Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8234, Washington, DC 20410-6000; telephone number 202-402-5878, or send an email to [Michael.K.Hollar@hud.gov](mailto:Michael.K.Hollar@hud.gov). For specific legal questions pertaining to Section 42, contact Branch 5, Office of the Associate Chief Counsel, Passthroughs and Special Industries, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224; telephone number 202-622-3040, fax number 202-622-4753. For questions about the "HUB Zones" program, contact Mariana Pardo, Assistant Administrator for Procurement Policy, Office of Government Contracting, Small Business Administration, 409 Third Street, SW., Suite 8800, Washington, DC 20416; telephone number 202-205-8885, fax number 202-205-7167, or send an email to [hubzone@sba.gov](mailto:hubzone@sba.gov). A text telephone is available for persons with hearing or speech impairments at 202-708-8339. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at 800-245-2691 for a small fee to cover duplication and mailing costs.

*Copies Available Electronically:* This notice and additional information about DDAs and QCTs are available electronically on the Internet at <http://www.huduser.org/datasets/qct.html>.

**SUPPLEMENTARY INFORMATION:**

**This Document**

This notice designates DDAs for each of the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. The designations of DDAs in this notice are based on final Fiscal Year (FY) 2011 Fair Market Rents (FMRs), FY 2011 income limits, 2000

Decennial Census population counts for nonmetropolitan areas, and 2010 Decennial Census population counts for metropolitan areas, as explained below.

This notice also seeks public comment on whether HUD should change the methodology for determining metropolitan DDAs to use Small Area FMRs (SAFMRs), estimated at the ZIP-Code level based on the relationship of ZIP-Code rents to metropolitan area rents, as the housing cost component of the DDA formula rather than metropolitan-area FMRs. Such a change would more widely distribute DDAs to metropolitan areas around the country than the current methodology, and encourage the development of LIHTC and tax-exempt bond-financed housing in neighborhoods with potentially greater opportunities for resident employment and education.

**2000 and 2010 Census**

Data from the 2010 census on total population of metropolitan areas and from the 2000 census for nonmetropolitan areas are used in the designation of DDAs. Population totals from the 2000 census are used for the designation of nonmetropolitan areas because 2010 population totals are not uniformly available for all nonmetropolitan areas, specifically Guam and the Virgin Islands. The Office of Management and Budget (OMB) first published new metropolitan area definitions incorporating 2000 census data in OMB Bulletin No. 03-04 on June 6, 2003, and updated them periodically through OMB Bulletin No. 09-01 on November 20, 2008. The FY 2011 FMRs and FY 2011 income limits used to designate DDAs are based on these metropolitan statistical area (MSA) definitions, with modifications to account for substantial differences in rental housing markets (and, in some cases, median income levels) within MSAs.

**Background**

The U.S. Department of the Treasury (Treasury) and its Internal Revenue Service (IRS) are authorized to interpret and enforce the provisions of the IRC, including the LIHTC found at Section 42. The Secretary of HUD is required to designate DDAs and QCTs by IRC Section 42(d)(5)(B). In order to assist in understanding HUD's mandated designation of DDAs and QCTs for use in administering IRC Section 42, a summary of the section is provided. The following summary does not purport to bind Treasury or the IRS in any way, nor does it purport to bind HUD, since HUD has authority to interpret or administer the IRC only in instances

where it receives explicit statutory delegation.

### Summary of the Low-Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low-income housing. IRC Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (credit ceiling) is limited by population. Each state is allowed a credit ceiling based on a statutory formula indicated at IRC Section 42(h)(3). States may carry forward unallocated credits derived from the credit ceiling for one year; however, to the extent such unallocated credits are not used by then, the credits go into a national pool to be redistributed to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit. Besides IRC Section 42 credits derived from the credit ceiling, states may also provide IRC Section 42 credits to owners of buildings based on the percentage of certain building costs financed by tax-exempt bond proceeds. Credits provided under the tax-exempt bond "volume cap" do not reduce the credits available from the credit ceiling.

The credits allocated to a building are based on the cost of units placed in service as low-income units under particular minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: (1) 20 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the Area Median Gross Income (AMGI), or (2) 40 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term "rent-restricted" means that gross rent, including an allowance for tenant-paid utilities, cannot exceed 30 percent of the tenant's imputed income limitation (*i.e.*, 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low-income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar-for-dollar. It is taken annually for a term of 10 years and is intended to yield a present value of either: (1) 70 percent of the "qualified basis" for new construction or

substantial rehabilitation expenditures that are not federally subsidized (as defined in Section 42(i)(2)), or (2) 30 percent of the qualified basis for the cost of acquiring certain existing buildings or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in IRC Section 42. Individuals can use the credits up to a deduction equivalent of \$25,000 (the actual maximum amount of credit that an individual can claim depends on the individual's marginal tax rate). For buildings placed in service after December 31, 2007, individuals can use the credits against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credits against ordinary income tax, and, for buildings placed in service after December 31, 2007, against the alternative minimum tax. These corporations also can deduct losses from the project.

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

IRC Section 42 defines a DDA as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. All designated DDAs in metropolitan areas (taken together) may not contain more than 20 percent of the aggregate population of all metropolitan areas, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all nonmetropolitan areas.

IRC Section 42(d)(5)(B)(v) allows states to award an increase in basis up

to 30 percent to buildings located outside of federally designated DDAs and QCTs if the increase is necessary to make the building financially feasible. This state discretion applies only to buildings allocated credits under the state housing credit ceiling and is not permitted for buildings receiving credits in connection with tax-exempt bonds. Rules for such designations shall be set forth in the LIHTC-allocating agencies' qualified allocation plans (QAPs).

### Explanation of HUD Designation Methodology

#### A. Difficult Development Areas

In developing the list of DDAs, HUD compared housing costs with incomes. HUD used 2010 census population for metropolitan areas, 2000 census population data for nonmetropolitan areas, and the MSA definitions, as published in OMB Bulletin No. 09-01 on November 20, 2008, with modifications, as described below. In keeping with past practice of basing the coming year's DDA designations on data from the preceding year, the basis for these comparisons is the FY 2011 HUD income limits for very low-income households (very low-income limits, or VLILs), which are based on 50 percent of AMGI, and final FY 2011 FMRs used for the Housing Choice Voucher (HCV) program. In formulating the FY 2011 FMRs and VLILs, HUD modified the current OMB definitions of MSAs to account for substantial differences in rents among areas within each new MSA that were in different FMR areas under definitions used in prior years. HUD formed these "HUD Metro FMR Areas" (HMFAs) in cases where one or more of the parts of newly defined MSAs that previously were in separate FMR areas had 2000 census-based 40th-percentile recent-mover rents that differed, by 5 percent or more, from the same statistic calculated at the MSA level. In addition, a few HMFAs were formed on the basis of very large differences in AMGIs among the MSA parts. All HMFAs are contained entirely within MSAs. All nonmetropolitan counties are outside of MSAs and are not broken up by HUD for purposes of setting FMRs and VLILs. (Complete details on HUD's process for determining FY 2011 FMR areas and FMRs are available at <http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr11>. Complete details on HUD's process for determining FY2011 income limits are available at <http://www.huduser.org/portal/datasets/il/il11/index.html>.)

HUD's unit of analysis for designating metropolitan DDAs, therefore, consists

of: entire MSAs, in cases where these were not broken up into HMFAs for purposes of computing FMRs and VLILs; and HMFAs within the MSAs that were broken up for such purposes. Hereafter in this notice, the unit of analysis for designating metropolitan DDAs will be called the HMFA, and the unit of analysis for nonmetropolitan DDAs will be the nonmetropolitan county or county equivalent area. The procedure used in making the DDA calculations follows:

1. For each HMFA and each nonmetropolitan county, a ratio was calculated. This calculation used the final FY 2011 two-bedroom FMR and the FY 2011 four-person VLIL.

a. The numerator of the ratio, representing the development cost of housing, was the area's final FY 2011 FMR. In general, the FMR is based on the 40th-percentile gross rent paid by recent movers to live in a two-bedroom apartment. In metropolitan areas granted a FMR based on the 50th-percentile rent for purposes of improving the administration of HUD's HCV program (see 76 FR 52058), the 40th-percentile rent was used to ensure nationwide consistency of comparisons.

b. The denominator of the ratio, representing the maximum income of eligible tenants, was the monthly LIHTC income-based rent limit, which was calculated as 1/12 of 30 percent of 120 percent of the area's VLIL (where the VLIL was rounded to the nearest \$50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent-of-AMGI base).

2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for HMFAs and for nonmetropolitan counties.

3. The DDAs are those with the highest ratios cumulative to 20 percent of the 2010 population of all metropolitan areas and 2000 population of all nonmetropolitan areas. Population totals from the 2000 census are used for the designation of nonmetropolitan areas because 2010 population totals are not uniformly available for all nonmetropolitan areas, specifically Guam and the Virgin Islands.

#### *B. Application of Population Caps to DDA Determinations*

IRC Section 42 requires the application of caps, or limitations, as noted above. The cumulative population of metropolitan DDAs cannot exceed 20 percent of the cumulative population of all metropolitan areas, and the cumulative population of nonmetropolitan DDAs cannot exceed

20 percent of the cumulative population of all nonmetropolitan areas.

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

#### *C. Exceptions to OMB Definitions of MSAs and Other Geographic Matters*

As stated in OMB Bulletin 09-01, defining metropolitan areas:

OMB establishes and maintains the definitions of Metropolitan \* \* \* Statistical Areas, \* \* \* solely for statistical purposes. \* \* \* OMB does not take into account or attempt to anticipate any non-statistical uses that may be made of the definitions[.] In cases where \* \* \* an agency elects to use the Metropolitan \* \* \* Area definitions in nonstatistical programs, it is the sponsoring agency's responsibility to ensure that the definitions are appropriate for such use. An agency using the statistical definitions in a nonstatistical program may modify the definitions, but only for the purposes of that program. In such cases, any modifications should be clearly identified as deviations from the OMB statistical area definitions in order to avoid confusion with OMB's official

definitions of Metropolitan \* \* \* Statistical Areas.

Following OMB guidance, the estimation procedure for the FY 2011 FMRs incorporates the current OMB definitions of metropolitan areas based on the Core-Based Statistical Area (CBSA) standards, as implemented with 2000 Census data, but makes adjustments to the definitions, in order to separate subparts of these areas in cases where FMRs (and in a few cases, VLILs) would otherwise change significantly if the new area definitions were used without modification. In CBSAs where subareas are established, it is HUD's view that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may approach becoming so as the social and economic integration of the CBSA component areas increases.

The geographic baseline for the new estimation procedure is the CBSA Metropolitan Areas (referred to as Metropolitan Statistical Areas or MSAs) and CBSA NonMetropolitan Counties (nonmetropolitan counties include the county components of Micropolitan CBSAs where the counties are generally assigned separate FMRs). The HUD-modified CBSA definitions allow for subarea FMRs within MSAs based on the boundaries of "Old FMR Areas" (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY 2005 FMRs. Collectively, they include the June 30, 1999, OMB definitions of MSAs and primary MSAs (old definition MSAs/primary metropolitan statistical areas (PMSAs), metropolitan counties deleted from old definition MSAs/PMSAs by HUD for FMR-setting purposes, and counties and county parts outside of old definition MSAs/PMSAs referred to as nonmetropolitan counties). Subareas of MSAs are assigned their own FMRs when the subarea 2000 census base FMR differs significantly from the MSA 2000 census base FMR (or, in some cases, where the 2000 census base AMGI differs significantly from the MSA 2000 census base AMGI). MSA subareas, and the remaining portions of MSAs after subareas have been determined, are referred to as "HUD Metro FMR Areas (HMFAs)," to distinguish such areas from OMB's official definition of MSAs.

In the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), HMFAs are defined according to county subdivisions or minor civil divisions (MCDs), rather than county boundaries. However, since no part of an HMFA is outside an OMB-defined,

county-based MSA, all New England nonmetropolitan counties are kept intact for purposes of designating Nonmetropolitan DDAs.

For the convenience of readers of this notice, the geographical definitions of designated Metropolitan DDAs are included in the list of DDAs.

#### Future Designations

DDAs are designated annually as updated income and FMR data are made public. QCTs are designated periodically as new data become available, or as metropolitan area definitions change. QCTs are not redesignated for 2012 because household income distribution and poverty data is not available for 2010 census tract boundaries. The most recent data for which household income by tract is available is from the 2005–2009, 5-year American Community Survey (ACS). This data, however, was released using the 2000 census tract boundaries, while the 2010 decennial census population counts were released using the 2010 census tract boundaries. The geography of the population counts does not match the geography of the income and poverty rate information. This makes the most recent data incompatible for QCT designation, meaning HUD cannot designate QCTs in accordance with statute.

The next release of census tract-level data from the ACS, which will be the 2006–2010, 5-year data using 2010 Decennial Census boundaries, is scheduled for December 2011. At this point, all data needed to designate QCTs in accordance with statute will be tabulated to compatible geographies. Since the LIHTC program, for which QCTs are designated, operates on a calendar-year annual allocation cycle, HUD's standing practice is to designate QCTs in the fall prior to the effective date, which coincides with the calendar year. This provides lead time for the LIHTC developers and administrators to adjust plans in accordance with the revised designations. Thus, the next scheduled designation of QCTs using data released in December 2011 is the fall of 2012, for an effective date of January 1, 2013.

#### Effective Date

The 2012 lists of DDAs are effective:

- (1) For allocations of credit after December 31, 2011; or
- (2) For purposes of IRC Section 42(h)(4), if the bonds are issued and the building is placed in service after December 31, 2011.

If an area is not on a subsequent list of DDAs, the 2012 lists are effective for the area if:

(1) The allocation of credit to an applicant is made no later than the end of the 365-day period after the applicant submits a complete application to the LIHTC-allocating agency, and the submission is made before the effective date of the subsequent lists; or

(2) For purposes of IRC Section 42(h)(4), if:

(a) The bonds are issued or the building is placed in service no later than the end of the 365-day period after the applicant submits a complete application to the bond-issuing agency, and

(b) The submission is made before the effective date of the subsequent lists, provided that both the issuance of the bonds and the placement in service of the building occur after the application is submitted.

An application is deemed to be submitted on the date it is filed if the application is determined to be complete by the credit-allocating or bond-issuing agency. A "complete application" means that no more than *de minimis* clarification of the application is required for the agency to make a decision about the allocation of tax credits or issuance of bonds requested in the application.

In the case of a "multiphase project," the DDA or QCT status of the site of the project that applies for all phases of the project is that which applied when the project received its first allocation of LIHTC. For purposes of IRC Section 42(h)(4), the DDA or QCT status of the site of the project that applies for all phases of the project is that which applied when the first of the following occurred: (a) The building(s) in the first phase were placed in service, or (b) the bonds were issued.

For purposes of this notice, a "multiphase project" is defined as a set of buildings to be constructed or rehabilitated under the rules of the LIHTC and meeting the following criteria:

(1) The multiphase composition of the project (i.e., total number of buildings and phases in project, with a description of how many buildings are to be built in each phase and when each phase is to be completed, and any other information required by the agency) is made known by the applicant in the first application of credit for any building in the project, and that applicant identifies the buildings in the project for which credit is (or will be) sought;

(2) The aggregate amount of LIHTC applied for on behalf of, or that would eventually be allocated to, the buildings on the site exceeds the one-year limitation on credits per applicant, as

defined in the Qualified Allocation Plan (QAP) of the LIHTC-allocating agency, or the annual per-capita credit authority of the LIHTC allocating agency, and is the reason the applicant must request multiple allocations over 2 or more years; and

(3) All applications for LIHTC for buildings on the site are made in immediately consecutive years.

Members of the public are hereby reminded that the Secretary of Housing and Urban Development, or the Secretary's designee, has sole legal authority to designate DDAs and QCTs, by publishing lists of geographic entities as defined by, in the case of DDAs, the several states and the governments of the insular areas of the United States and, in the case of QCTs, by the Census Bureau; and to establish the effective dates of such lists. The Secretary of the Treasury, through the IRS thereof, has sole legal authority to interpret, and to determine and enforce compliance with the IRC and associated regulations, including **Federal Register** notices published by HUD for purposes of designating DDAs and QCTs. Representations made by any other entity as to the content of HUD notices designating DDAs and QCTs that do not precisely match the language published by HUD should not be relied upon by taxpayers in determining what actions are necessary to comply with HUD notices.

The designations of "Qualified Census Tracts" under IRC Section 42, published October 6, 2009 (74 FR 51304), remain in effect. The above language regarding 2012 and subsequent designations of DDAs also applies to the designations of QCTs published October 6, 2009 (74 FR 51304) and to subsequent designations of QCTs.

#### Interpretive Examples of Effective Date

For the convenience of readers of this notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose DDA status. The examples covering DDAs are equally applicable to QCT designations.

##### (Case A)

Project A is located in a 2012 DDA that is NOT a designated DDA in 2013. A complete application for tax credits for Project A is filed with the allocating agency on November 15, 2012. Credits are allocated to Project A on October 30, 2013. Project A is eligible for the increase in basis accorded a project in a 2012 DDA because the application was filed BEFORE January 1, 2013 (the assumed effective date for the 2013 DDA lists), and because tax credits were

allocated no later than the end of the 365-day period after the filing of the complete application for an allocation of tax credits.

*(Case B)*

Project B is located in a 2012 DDA that is NOT a designated DDA in 2013 or 2014. A complete application for tax credits for Project B is filed with the allocating agency on December 1, 2012. Credits are allocated to Project B on March 30, 2014. Project B is not eligible for the increase in basis accorded a project in a 2012 DDA because, although the application for an allocation of tax credits was filed before January 1, 2013 (the assumed effective date of the 2013 DDA lists), the tax credits were allocated later than the end of the 365-day period after the filing of the complete application.

*(Case C)*

Project C is located in a 2012 DDA that was not a DDA in 2011. Project C was placed in service on November 15, 2011. A complete application for tax-exempt bond financing for Project C is filed with the bond-issuing agency on January 15, 2012. The bonds that will support the permanent financing of Project C are issued on September 30, 2012. Project C is not eligible for the increase in basis otherwise accorded a project in a 2012 DDA, because the project was placed in service before January 1, 2012.

*(Case D)*

Project D is located in an area that is a DDA in 2012, but is not a DDA in 2013. A complete application for tax-exempt bond financing for Project D is filed with the bond-issuing agency on October 30, 2012. Bonds are issued for Project D on April 30, 2013, but Project D is not placed in service until January 30, 2014. Project D is eligible for the increase in basis available to projects located in 2012 DDAs because: (1) One of the two events necessary for triggering the effective date for buildings described in Section 42(h)(4)(B) of the IRC (the two events being bonds issued and buildings placed in service) took place on April 30, 2013, within the 365-day period after a complete application for tax-exempt bond financing was filed, (2) the application was filed during a time when the location of Project D was in a DDA, and (3) both the issuance of the bonds and placement in service of Project D occurred after the application was submitted.

*(Case E)*

Project E is a multiphase project located in a 2012 DDA that is not a

designated DDA in 2013. The first phase of Project E received an allocation of credits in 2012, pursuant to an application filed March 15, 2012, which describes the multiphase composition of the project. An application for tax credits for the second phase Project E is filed with the allocating agency by the same entity on March 15, 2013. The second phase of Project E is located on a contiguous site. Credits are allocated to the second phase of Project E on October 30, 2013. The aggregate amount of credits allocated to the two phases of Project E exceeds the amount of credits that may be allocated to an applicant in one year under the allocating agency's QAP and is the reason that applications were made in multiple phases. The second phase of Project E is, therefore, eligible for the increase in basis accorded a project in a 2012 DDA, because it meets all of the conditions to be a part of a multiphase project.

*(Case F)*

Project F is a multiphase project located in a 2012 DDA that is not a designated DDA in 2013. The first phase of Project F received an allocation of credits in 2012, pursuant to an application filed March 15, 2012, which does not describe the multiphase composition of the project. An application for tax credits for the second phase of Project F is filed with the allocating agency by the same entity on March 15, 2014. Credits are allocated to the second phase of Project F on October 30, 2014. The aggregate amount of credits allocated to the two phases of Project F exceeds the amount of credits that may be allocated to an applicant in one year under the allocating agency's QAP. The second phase of Project F is, therefore, not eligible for the increase in basis accorded a project in a 2012 DDA, since it does not meet all of the conditions for a multiphase project, as defined in this notice. The original application for credits for the first phase did not describe the multiphase composition of the project. Also, the application for credits for the second phase of Project F was not made in the year immediately following the first phase application year.

**Request for Public Comment on Designating DDAs Using Small Area FMRs in Metropolitan Areas**

HUD is considering a major policy change in the method of designating metropolitan DDAs beginning with the 2013 designations. Rather than using FMRs established for HUD Metropolitan FMR Areas as the measure of "construction, land, and utility costs relative to area median gross income,"

HUD would use "Small Area FMRs" (SAFMRs) defined at the ZIP Code level within metropolitan areas. In general, HUD estimates SAFMRs by multiplying the ratio of ZIP-Code area to metropolitan-area median gross rent by the metropolitan-area FMRs (a complete description of how SAFMRs are estimated was published in a **Federal Register** notice at 75 FR 27808-12 (May 18, 2010) and is available at: [http://www.huduser.org/portal/datasets/fmr/fmr2010f/Small\\_Area\\_FMRs.pdf](http://www.huduser.org/portal/datasets/fmr/fmr2010f/Small_Area_FMRs.pdf)). HUD would use the same income measure as used in the current metropolitan DDA designation method, the HUD income limits for very low-income households, or VLILs, estimated at the HUD Metropolitan FMR Area level, which are used to determine LIHTC and tax-exempt bond-financed project maximum rents and tenant income limits.

HUD would otherwise designate Small Area Difficult Development Areas (SADDAs) in the same way as it designates metropolitan DDAs as described above in this notice, except that the unit of analysis is the metropolitan ZIP Code instead of the HUD Metropolitan FMR Area. Thus, the population-weighted 20 percent of ZIP Codes with the highest ratios of SAFMR to metropolitan VLIL would be designated as DDAs.

HUD has available an evaluative list of the 2,118 metropolitan ZIP Codes that would be designated Small Area DDAs based on the data available to HUD at the time of this publication. The main piece of currently missing data that HUD would have for a 2013 designation of SADDAs is the 2010 Decennial Census population counts for ZIP Codes. Thus, HUD used the ZIP Code-to-metropolitan area rent relationships and ZIP Code populations from the 2000 Decennial Census to create the evaluative list of SADDAs. In general, the metropolitan areas designated DDAs in this notice have many, but not all, ZIP Codes designated as SADDAs, while a number of metropolitan areas that have never been DDAs in the history of the program get one or more SADDAs. Under SADDAs, the additional subsidy available under section 42 would be limited to the higher opportunity areas of high-cost rental markets, and to the highest opportunity areas of otherwise lower-cost rental markets.

HUD seeks comments on the relative merits of SADDAs versus existing metropolitan DDA policy in advancing HUD's goals of meeting the need for quality affordable rental homes and utilizing housing as a platform for improving quality of life.

**Findings and Certifications***Environmental Impact*

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(6) of HUD's regulations, the policies and procedures contained in this notice provide for the establishment of fiscal requirements or procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Therefore, they are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no Finding of No Significant Impact is required.

*Federalism Impact*

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any policy document that has federalism implications if the document either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the document preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This notice merely designates DDAs as required under Section 42 of the IRC, as amended, for the use by political subdivisions of the states in allocating the LIHTC. This notice also details the technical methodology used in making such designations. As a result, this notice is not subject to review under the order.

Dated: October 20, 2011.

**Raphael W. Bostic,**

*Assistant Secretary for Policy Development and Research.*

[FR Doc. 2011-27817 Filed 10-26-11; 8:45 am]

BILLING CODE 4210-67-P

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[LLAZ910000.L1430000.ET0000.  
LXSIURAM0000 241A; AZA-35138]

**Notice of Availability of the Northern Arizona Proposed Withdrawal Final Environmental Impact Statement**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management

Act (FLPMA), the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Northern Arizona Proposed Withdrawal and by this notice is announcing its availability.

**DATES:** The Final EIS will be distributed and made available to the public for a minimum of 30 days following the publication of a Notice of Availability in the **Federal Register** by the Environmental Protection Agency (EPA). As the decision maker in this matter, the Secretary of the Interior will not issue a final decision on the proposal for a minimum of 30 days after the date that the EPA publishes this notice in the **Federal Register**.

**ADDRESSES:** Copies of the Northern Arizona Proposed Withdrawal Final EIS are available for public inspection at: Bureau of Land Management, Arizona Strip District Office, 345 East Riverside Drive, St. George, Utah 84790; Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004-4427; and U.S. Forest Service, Kaibab National Forest, 800 South 6th Street, Williams, Arizona 86046. Interested persons may also review the Final EIS on the Internet at <http://www.blm.gov/az/st/en/prog/mining/timeout.html>.

**FOR FURTHER INFORMATION CONTACT:** Chris Horyza, Project Manager, Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004-4427, (602) 417-9446, e-mail [chris\\_horyza@blm.gov](mailto:chris_horyza@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877-8339 to contact the above individual during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** On July 21, 2009, the U.S. Department of the Interior published notice of a proposal to withdraw (Proposed Withdrawal) approximately 1 million acres of Federal locatable minerals in northern Arizona from location and entry under the Mining Law of 1872, (30 U.S.C. 22-54) (Mining Law), subject to valid existing rights, by the Secretary of the Interior (Secretary).

Under Section 204 of FLPMA, publication of the **Federal Register** notice of the Proposed Withdrawal had the effect of segregating the lands involved for up to 2 years from the location and entry of new mining claims, subject to valid existing rights.

For detailed information pertaining to the location of the Proposed Withdrawal, refer to the map dated August 11, 2011, posted on the Internet at: <http://www.blm.gov/az/st/en/prog/mining/timeout.html>. This map is also on file at the Arizona Strip District Office at the address above and can be viewed there upon request. Detailed legal descriptions of each withdrawal alternative are included as Appendix C in the Northern Arizona Proposed Withdrawal Final EIS. On June 27, 2011, the Secretary published a Public Land Order withdrawing, under the Secretary's emergency withdrawal authority in Section 204(e) of FLPMA, the same Federal lands from location and entry under the Mining Law, subject to valid existing rights. The emergency withdrawal was effective on July 21, 2011, and expires on January 20, 2012. The BLM has completed an Environmental Analysis of the Proposed Withdrawal in accordance with NEPA.

The Proposed Action analyzed in the Final EIS is the withdrawal of 1,006,545 acres of Federal lands near Grand Canyon National Park from location and entry under the Mining Law for a period of 20 years. This has also been selected as the Preferred Alternative. The purpose of the action is to protect the natural, cultural, and social resources in the Grand Canyon watershed from the possible adverse effects of the reasonably foreseeable locatable mineral exploration and mining that could occur in the area proposed for withdrawal.

The need for action is based on a history of hardrock mining activities in the Grand Canyon watershed dating back to the 1860s. In some cases, these mining activities have left lasting impacts within the watershed, primarily associated with older copper and uranium mines. These historical impacts and the recent increase in the number and extent of mining claims located in the area, particularly for uranium, have raised concerns that future hardrock mining activities in the Grand Canyon watershed could result in adverse effects to resources.

Public scoping for this project began on August 26, 2009 (74 FR 43152), with publication of a Notice of Intent in the **Federal Register**, and closed on October 30, 2009. During that time, 83,525 comment letters were received. Important issues identified during scoping include:

- Change in geologic conditions and availability of uranium resources;
- Dewatering of perched aquifers and changes in water availability in deep aquifers;
- Contamination of both ground and surface water;



2012 IRS SECTION 42(d)(5)(B) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (OMB Metropolitan Area Definitions, November 20, 2008)

State	Nonmetropolitan Counties or County Equivalents	Metropolitan Counties
Mississippi (cont'd)	Lincoln County Neshoba County Panola County Quitman County Sunflower County Union County Wayne County Yalobusha County	Monroe County Newton County Pearl River County Scott County Tallahatchie County Wallhall County Webster County Yazoo County
Missouri	Taney County	Meagher County
Montana	Beaverhead County Park County	Mineral County
Nevada	Douglas County	
New Hampshire	Belknap County	Cheshire County
New Mexico	Guadalupe County	Mora County
New York	Cortland County Greene County Schuyler County	Fulton County Jefferson County Steuben County
North Carolina	Avery County Jones County Rutherford County Wilson County	Chowan County McDowell County Transylvania County
Oregon	Clatsop County Douglas County Josephine County Sherman County	Crook County Grant County Lincoln County Wasco County
Pennsylvania	Monroe County	Wayne County
South Carolina	Beaufort County	Jasper County
Tennessee	Bedford County Angelina County Dallam County Kerr County Mills County Titus County	Haywood County Burnet County Frio County Lamar County Nacogoches County Trinity County
Texas	Duchesne County Addison County Orange County Northampton County Clallam County Mason County Eastern District	Sevier County Coke County Henderson County Llano County Navarro County Walker County
Utah		
Vermont		Essex County Windham County
Virginia		Jefferson County
Washington		Lewis County
American Samoa		Lanai County Windsor County
Guam		Western District
Northern Mariana Islands	Northern Islands Municipality	Tinian Municipality
Puerto Rico	Adjuntas Municipio Las Marias Municipio Utuado Municipio St. Croix	Jayuya Municipio Santa Isabel Municipio
Virgin Islands	St. John St. Thomas	Salinas Municipio Vieques Municipio

2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS  
 (2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)

METROPOLITAN AREA: Abilene, TX MSA	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT								
COUNTY OR COUNTY EQUIVALENT	101.00	102.00	103.00	104.00	108.00	110.00	117.00	119.00	121.00											
Taylor County																				

METROPOLITAN AREA: Aguadilla-Isabela-San Sebastián, PR MSA	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT						
COUNTY OR COUNTY EQUIVALENT	4304.02	4305.02	4006.00	4008.00	4009.00	4010.00	4011.00													
Aguada Municipio																				
Aguadilla Municipio																				
Isabela Municipio																				
Lares Municipio																				
San Sebastián Municipio																				

METROPOLITAN AREA: Akron, OH MSA	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT														
COUNTY OR COUNTY EQUIVALENT	6015.01	6015.02	6015.03	5011.00	5012.00	5013.01	5013.02	5017.00	5018.00	5019.00	5021.01	5024.00	5025.00	5032.00	5034.00					
Portage County																				
Summit County																				

METROPOLITAN AREA: Albany, GA MSA	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT								
COUNTY OR COUNTY EQUIVALENT	2.00	3.00	8.00	12.00	13.00	14.01	14.02	15.00	103.01	103.02	106.01									
Dougherty County																				
Terrell County																				

METROPOLITAN AREA: Albany-Schenectady-Troy, NY MSA	TRACT																			
COUNTY OR COUNTY EQUIVALENT	1.00	2.00	4.04	5.01	6.00	7.00	8.00	11.00	15.00	21.00	23.00	25.00								
Albany County																				
Rensselaer County																				
Schenectady County																				











2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS  
 (2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)

METROPOLITAN AREA: San Francisco-Oakland-Fremont, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT											
Alameda County	4007.00	4008.00	4009.00	4010.00	4011.00	4013.00	4014.00	4015.00	4016.00	4017.00	4018.00	4021.00
	4022.00	4024.00	4025.00	4026.00	4027.00	4028.00	4029.00	4030.00	4031.00	4033.00	4034.00	4054.00
	4057.00	4058.00	4059.00	4060.00	4061.00	4062.01	4062.02	4063.00	4065.00	4066.00	4070.00	4072.00
	4073.00	4074.00	4075.00	4076.00	4084.00	4085.00	4086.00	4087.00	4088.00	4089.00	4090.00	4091.00
	4092.00	4093.00	4094.00	4095.00	4096.00	4097.00	4101.00	4102.00	4103.00	4204.00	4224.00	4225.00
	4226.00	4227.00	4228.00	4229.00	4232.00	4235.00	4236.02	4240.01	4240.02	4340.00	4375.00	4377.00
	3050.00	3072.02	3100.00	3120.00	3141.04	3160.00	3280.00	3361.01	3361.02	3650.02	3672.00	3680.00
	3690.01	3730.00	3750.00	3760.00	3770.00	3790.00						
	1122.00	1290.00										
	107.00	113.00	114.00	115.00	117.00	118.00	120.00	121.00	122.00	123.00	124.00	125.00
161.00	176.01	178.00	179.02	201.00	208.00	230.02	231.01	231.02	231.03	234.00	332.01	
603.00	605.02	607.00										
6102.02	6102.03	6106.01	6117.00									

METROPOLITAN AREA: San Germán-Cabo Rojo, PR MSA	
COUNTY OR COUNTY EQUIVALENT	TRACT
Cabo Rojo Municipio	8301.00
Lajas Municipio	8501.02
Sabana Grande Municipio	9608.00

METROPOLITAN AREA: San Jose-Sunnyvale-Santa Clara, CA MSA	
COUNTY OR COUNTY EQUIVALENT	TRACT
Santa Clara County	5008.00
	5009.01
	5031.12

*[Handwritten mark]*



2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS  
 (2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)

METROPOLITAN AREA: Wilmington, NC MSA  
 COUNTY OR COUNTY EQUIVALENT  
 New Hanover County

TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT						
101.00	103.00	105.01	110.00	111.00	113.00	114.00								

METROPOLITAN AREA: Winston-Salem, NC MSA  
 COUNTY OR COUNTY EQUIVALENT  
 Forsyth County

| TRACT |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 1.00  | 2.00  | 3.01  | 3.02  | 4.00  | 5.00  | 6.00  | 7.00  | 8.01  | 8.02  | 9.00  | 15.00 |       |       |       |
| 16.02 | 17.00 | 19.01 |       |       |       |       |       |       |       |       |       |       |       |       |

METROPOLITAN AREA: Worcester, MA MSA  
 COUNTY OR COUNTY EQUIVALENT  
 Worcester County

TRACT	TRACT	TRACT	TRACT											
7105.00	7107.00	7312.01	7312.02	7313.00	7314.00	7315.00	7316.00	7317.00	7318.00	7319.00	7320.01			
7321.00	7324.00	7325.00	7330.00	7384.00	7421.00	7443.00	7542.00	7543.00	7572.00	7573.00				

METROPOLITAN AREA: Yakima, WA MSA  
 COUNTY OR COUNTY EQUIVALENT  
 Yakima County

| TRACT |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 1.00  | 2.00  | 6.00  | 15.00 | 20.01 | 25.00 | 27.02 |       |       |       |       |       |       |       |       |

METROPOLITAN AREA: Yauco, PR MSA  
 COUNTY OR COUNTY EQUIVALENT  
 Guánica Municipio  
 Guayanilla Municipio  
 Yauco Municipio

TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
9609.00	9610.00	9612.00	9613.00											
7404.00														
7501.01														

METROPOLITAN AREA: York-Hanover, PA MSA  
 COUNTY OR COUNTY EQUIVALENT  
 York County

| TRACT |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 1.00  | 2.00  | 5.00  | 7.00  | 9.00  | 10.00 | 11.00 | 12.00 | 15.00 | 16.00 |       |       |       |       |       |

2012 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS  
(2000 Census Data; OMB Metropolitan Area Definitions; November 20, 2008)

NONMETROPOLITAN PART OF: American Samoa												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Eastern District	9501.00	9504.00										
Manu'a District	9517.00	9518.00										
Swains Island	9520.00											
Western District	9510.00	9515.00										

NONMETROPOLITAN PART OF: Guam												
COUNTY OR COUNTY EQUIVALENT	TRACT											
Guam	9508.00	9513.00	9515.00	9518.00	9522.00	9524.00	9526.00	9528.00	9530.00	9533.00	9534.00	9544.00
	9548.00	9554.00										

NONMETROPOLITAN PART OF: Northern Mariana Islands												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Northern Islands Municipality	9501.00											
Saipan Municipality	9507.00	9509.00	9510.00	9511.00	9512.00	9513.02						

NONMETROPOLITAN PART OF: Puerto Rico												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adjuntas Municipio	9564.00	9565.00	9568.00									
Coamo Municipio	9543.00											
Las Marias Municipio	9598.00	9599.00										
Maricao Municipio	9601.00											
Utuado Municipio	9569.00	9574.00	9575.00									
Vieques Municipio	9501.00	9503.00										

NONMETROPOLITAN PART OF: Virgin Islands												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Croix	9702.00	9703.00	9708.00	9709.00	9711.00	9713.00						





# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

**GDB**

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX E

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

## ANNEX E: BINDING COMMITMENT FOR SUBSEQUENT YEAR

**BINDING COMMITMENT FOR A CERTIFICATE  
OF RESERVATION FOR A LOW INCOME  
HOUSING TAX CREDIT ALLOCATION IN 20XX**

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

1. Allocation Year: 20XX
2. Amount of Tax Credits to Be Reserved: \$ \_\_\_\_\_
3. Name and Address of the Project:
  - Name: \_\_\_\_\_
  - Address: \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
4. Residential Buildings in the Project: \_\_\_\_\_
5. Units in the Project: \_\_\_\_\_
6. Type of building (s):
  - New Construction
  - Existing Building
  - Substantial Rehabilitation
7. Name, Address and Taxpayer Identification Number of Project Owner:
  - Name: \_\_\_\_\_
  - Address: \_\_\_\_\_
  - \_\_\_\_\_
  - Identification Number: \_\_\_\_\_

8. Name, Address and Taxpayer Identification Number of Allocating Agency:

Name: **PUERTO RICO HOUSING FINANCE AUTHORITY**  
Address: P.O. Box 71361  
San Juan, P.R. 00936-8461

Identification Number: **66-0433752**

9. Date of this Binding Commitment: \_\_\_\_\_, **20XX**.

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

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

- a. Credit is deemed necessary to facilitate the restructuring of financing provided to a project confronting economic difficulties.
- b. Credit is deemed necessary to preserve the low-income housing status of the Project or to maintain the total number of available low-income housing units within Puerto Rico.
- c. Credit is requested in connection with the acquisition of a project from the government of Puerto Rico, or any department, agency, entity or political subdivision thereof.
- d. Tax Credit is requested in connection with a project utilizing the Tax Credit Program as their only subsidy.
- e. The Project is part of a Community Revitalization Master Plan.
- f. Due to unforeseen circumstances that the PRHFA at its sole discretion, believe are valid.

12. PRHFA commits itself to enter into a Carryover Allocation Agreement with the Project Owner in the year **20XX**

13. The Owner commits to achieve the Basic Threshold and Minimum Ranking Points as required in the **20XX** Qualified Allocation Plan. The Owner also commits to pay the Processing Fee equal to a .25% of the annual tax credit requested.

PRHFA represents and warrants that this Binding Commitment binds PRHFA and its successors and assigns and that PRHFA is the housing credit agency for the Commonwealth of Puerto Rico. The Binding Commitment is a commitment to reserve Tax Credits to the Project Owner, its successors and assigns, under Section 42(h)(1)(C) of the Code with respect to the Project and that the State Housing Credit Ceiling [as defined in Section 42(h)(1)(F) of the Code] shall be reduced in **20XX** to reflect this commitment. Pursuant to Section 42(h)(1)(F) of the

Code, the portion of Tax Credits to be allocated to each building in the Project shall be specified no later than the close of the calendar year in which each such building is placed in service and shall be reflected in IRS Form 8609 for each such building. The Project Owner represents and warrants that no portion of the Project has been placed in service by the Project Owner in the calendar year, or prior to the calendar year, in which this Binding Commitment is made.

**Agency:** Puerto Rico Housing Finance Authority  
P O Box 71361  
San Juan, PR 00936-8461  
**COMMONWEALTH OF PUERTO RICO**  
ID Number: 66-0433752

By: \_\_\_\_\_

Executive Director

Commitment Date: \_\_\_\_\_, 20XX

**Acknowledged, Agreed and Accepted:**

Owner: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Affidavit \_\_\_\_\_:**

Sworn to and subscribed before me by [name], [title] of [name of General Partner], General Partner of [name of Owner], of legal age, [legal status], and resident of \_\_\_\_\_, and [name], Executive Director of Puerto Rico Housing Finance Authority, of legal age, [legal status], and resident of \_\_\_\_\_, both personally known to me.

In San Juan, Puerto Rico, on this \_\_\_\_\_, 20XX.

\_\_\_\_\_  
NOTARY PUBLIC

(SEAL)



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

**GDB**

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX F

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

## ANNEX F: FAIR HOUSING ACT ACCESSIBILITY CHECKLIST

The following is a checklist of design and construction requirements of the Fair Housing Act. This checklist represents many, but not all, of the requirements to the Act. This checklist is not intended to be exhaustive; rather, it is a helpful guide in determining if the major requirements of the Act have been met in designing and constructing a particular multifamily development.

### GENERAL REQUIREMENTS

- Development has buildings containing 4 or more units and was designed and constructed for first occupancy on or after March 13, 1991.
- If it is an elevator building, all units are "covered units".
- All units in buildings with elevators have features required by the Act.
- If it is a non-elevator building, all ground-floor units "covered units"
- All ground floor units in buildings without elevators have features required by the Act.

**NOTE:** There is a narrow exception, which provides that a non-elevator building in a development need not meet all of the Act's requirements if it is impractical to have an accessible entrance to the non-elevator building because of hilly terrain or other unusual characteristics of the site.

### 1. ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all other amenities.
- The accessible route also connects to parking lots, public streets, public sidewalks, and to public transportation stops.
- All slopes are no steeper than 8.33%.
- All slopes between 5% and 8.33% have handrails.
- Covered units have at least one entrance on an accessible route.
- There are sufficient curb cuts for a person using a wheelchair to reach every building in the development.

### 2. COMMON AND PUBLIC USE AREAS

- At least two percent of all parking spaces are designated as handicapped parking.
- At least, one parking space at each common and public use amenity is designated as handicapped parking.
- All handicapped parking spaces are properly marked.
- All handicapped parking spaces are at least 96" wide with a 60" wide access aisle, which can be shared between two spaces.
- The accessible aisle connects to a curb ramp and the accessible route.
- The rental or sales office is readily accessible and usable by persons with disabilities.

- All mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains, public telephones, and other common and public use amenities offered by the development are readily accessible and usable by persons with disabilities.

3. **USABLE DOORS**

- All doors into and through covered units and common use facilities provide a clear opening of at least 32" nominal width.
- All doors leading into common use facilities have lever door handles that do not require grasping and twisting.
- Thresholds at doors to common use facilities are no greater than 1/2".
- All primary entrance doors to covered units have lever door handles that not require grasping and twisting.
- Thresholds at primary entrance doors to covered units are no greater than 3/4" and beveled.

4. **ACCESSIBLE ROUTE INTO AND THROUGH THE COVERED UNIT**

- All routes through the covered units are no less than 36" wide.

5. **ACCESSIBLE ENVIRONMENTAL CONTROLS**

- All light switches, electrical outlets, thermostats, and other environmental controls must be no less than 15" and no greater than 48" from the floor.

6. **REINFORCED BATHROOM WALLS FOR GRAB BARS**

- Reinforcements are built into the bathroom walls surrounding toilets, showers, and bathtubs for the future installation of grab bars.

7. **USABLE KITCHEN AND BATHROOMS**

- At least 30" x 48" of clear floor space at each kitchen fixture and appliance.
- At least 40" between opposing cabinets and appliances.
- At least a 60" diameter turning circle in U-shaped kitchens unless the cook top or sink at the end of the U-shaped kitchen has removable cabinets beneath for knee space.
- In bathroom, at least 30" x 48" of clear floor space outside the swing of the bathroom door.
- Sufficient clear floor space in front of and around sink, toilet, and bathtub for use by persons using wheelchairs.

\*\*\*\*\*

This checklist represents many, but not all, of the accessible and adaptive design and construction requirements of the Fair Housing Act. This checklist is not a safe harbor for compliance with the Fair Housing Act. HUD and the Department of Justice recognize the following standards as safe harbors when used in conjunction with the Fair Housing Act, regulations, and Fair Housing Act Accessibility Guidelines (i.e. scoping requirements)

1. HUD's March 6, 1991 Fair Housing Accessibility Guidelines (the Guidelines), and the June 28, 1994 Supplemental Notice to Fair Housing Accessibility Guidelines, Questions and Answers about the Guidelines;
2. HUD's Fair Housing Act Accessibility Design Manual;
3. ANSI A117.1-1986, used in conjunction with the Act and HUD's regulations, and the Guidelines;
4. CABO/ANSI A117.1-1992, used in conjunction with the Act, HUD's regulations, and the Guidelines;
5. ICC/ANSI A117.1-1998, used in conjunction with the Act, HUD's regulations, and the Guidelines;
6. *Code Requirements for Housing Accessibility 2000 (CRHA)*, approved and published by the International Code Council (ICC), October 2000;
7. *International Building Code 2000 (IBC)* as amended by the *IBC 2001 Supplement to the International Codes*.

Failure to comply with all of the accessible and adaptive design and construction requirements of the Fair Housing Act may result in loss of tax credits pursuant to 26 C.F.R. § 1.42-9. Therefore, you should consult an attorney and/or design professional to ensure that the construction of the multi-family development complies with the accessible and adaptive design and construction requirements of the Fair Housing Act.

## COVERED BUILDINGS

### IS THE DEVELOPMENT SUBJECT TO THE ACT?

- ✓ Development has buildings containing 4 or more units and was designed and constructed for first occupancy on or after March 13, 1991
- ✓ Building contains elevator so all units in building are "covered units"
- ✓ All units in buildings with elevators are designed and constructed with features required by the Act
- ✓ Building does not contain elevator so only ground-floor units in building are "covered units"
- ✓ All ground-floor units in buildings without elevators are designed and constructed with features required by the Act Development contains "covered units," so the public and common use facilities must be designed and constructed with features required by the Act NOTE: Fair Housing Act Accessibility Guidelines contains a narrow "Site Impracticality Exception" which provides that a non-elevator building does not have to meet all of the Act's requirements if it is impractical to have an accessible entrance to the building because of the natural hilly terrain or other unusual characteristics of the site.

FAIR HOUSING ACT CONTACT INFORMATION

**Fair Housing Act - General Information U.S. Department of Housing and Urban Development Bryan Greene Office of Fair Housing & Equal Opportunity Tel: (202) 708-1145 Fax: (202) 708/3527 [www.hud.gov](http://www.hud.gov)**

**Fair Housing Act - Accessibility Issues  
U.S. Department of Housing and Urban Development  
Cheryl Kent  
Office of Fair Housing and Equal Opportunity  
Tel: (202) 708-2333  
Fax: (202) 708-1251**

**Section 202 and Section 811 Program Information  
U.S. Department of Housing and Urban Development  
Aretha Williams  
Grant Policy and Management Division  
Tel: (202) 708-2866**

**U.S. Justice Department - Point of Contact  
Diane Houk, Esq.  
Civil Rights Division  
Housing Section  
Tel: (202) 514-4713  
Fax: (202) 514-1116  
[www.usdoj.gov/crt/housing](http://www.usdoj.gov/crt/housing)**

**U.S. Treasury Department - Point of Contact  
Jack Malgeri, Esq.  
Internal Revenue Service  
Office of Chief Counsel  
Tel: (202) 622-3040  
Fax: (202) 622-4753**



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX G

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

**ANNEX G: OWNER'S CERTIFICATION****[THIS FORM MUST BE INCLUDED WITH APPLICATION]****CERTIFICATION**

Individually, or as the general partner(s) or officers of the applicant entity, I am familiar with the provisions of the Tax Reform Act of 1986 and subsequent revisions, with respect to the Low Income Housing Tax Credit Program and to the best of my knowledge and belief, the applicant entity has complied, or will comply with all of the requirements which are prerequisite to issuance of tax credits by the Puerto Rico Housing Finance Authority. I understand that the Low Income Housing Tax Credit Program is governed and controlled by rules and regulations issued and to be issued by the United States Department of the Treasury.

To the best of my knowledge and belief, no information contained in this application or in the listed attachments is any way false or incorrect; that it is truly descriptive of the project or property for which Low Income Housing Tax Credits are being applied, and the proposed construction/rehabilitation will not violate zoning ordinances or deed restrictions.

I hereby make application to the Puerto Rico Housing Finance Authority for an allocation of housing tax credits. I agree that the Puerto Rico Housing Finance Authority or any of its directors, officers, employees, and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the Low Income Housing Tax Credit Program: therefore, I assume the risk of all damages, losses, costs, and expenses related thereto and agree to indemnify and save harmless the Puerto Rico Housing Finance Authority or any of its directors, officers, employees, and agents against any and all claims, suits, losses, damages, costs, and expenses of any kind and of any nature that the Puerto Rico Housing Finance Authority may hereinafter suffer, incur, or pay arising out of its decision concerning the application for Low Income Housing Tax Credits or the use of the information concerning the application for Low Income Housing Tax Credits or the use of the information concerning the Low Income Housing Tax Credit Program. I also agree that the Puerto Rico Housing Finance Authority has made no representations about the effect of the tax credit upon my taxes or that of any other person connected with this project.

I understand and agree that my application for a low income housing credit, all attachments thereto, and all correspondence relating to my application in particular or the credit in general are subject to a request for disclosure under the Constitution and Laws of the Commonwealth of Puerto Rico and I expressly consent to such disclosure.

I hereby represent and certify to the Puerto Rico Housing Finance Authority that the owner, developer or applicant and their shareholders, directors, officers, and partners, as applicable, are in compliance with Section 42 requirements and that there are no

outstanding findings of noncompliance with the Agency's Office of Audit and Compliance as of the date of this application in any other project that received tax credit and in which they have an interest.

I further understand and agree that any and all correspondence to me (us) by the Puerto Rico Housing Finance Authority or other Puerto Rico Housing Finance Authority generated documents relating to my application are subject to a request for disclosure under the Constitution and Laws of the Commonwealth of Puerto Rico. I expressly consent to such disclosure. I agree to hold harmless the Puerto Rico Housing Finance Authority and the directors, officers, employees, and agents of the Puerto Rico Housing Finance Authority against all claims, suits, losses, damages, costs, and expenses or any kind (including, but not limited to, attorney's fees, litigation and court costs) directly or indirectly resulting from or arising out of the release of all information pertaining to my application pursuant to a request under such request. I further waive, with regard to such application, correspondence or other documents, any applicable rights of confidentiality that I may have under Section 6103 of the US Internal Revenue Code or other provisions of federal law.

I also agree that Puerto Rico Housing Finance Authority may request additional information in order to evaluate this application.

I hereby certify that the above information and any attachments in support thereof are true, accurate, and complete. I understand that any misrepresentations in this application or supporting documentation may result in a withdrawal of tax credits by the Puerto Rico Housing Finance Authority, my (and related parties) being barred from future program participation, and notification to the Internal Revenue Service.

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Name of Development Project

By: \_\_\_\_\_

\_\_\_\_\_  
Title

I, the undersigned, a Notary Public in and for the Commonwealth of Puerto Rico, hereby certify that \_\_\_\_ whose name(s) \_\_\_\_ signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of this document, he executed the same voluntarily on the day the same bears date.

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

---

Notary Public

(SIGNED AND SEALED)



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX H

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

**ANNEX H: ACCOUNTANT'S OPINION LETTER**

[THIS FORM MUST BE INCLUDED WITH THE APPLICATION]

[ACCOUNTANT'S LETTERHEAD]

Insert Date

Puerto Rico Housing Finance Authority  
P O Box 71361  
San Juan, PR 00936-8461

**Re: Low Income Housing Tax Credit Program**  
Name of Development: \_\_\_\_\_  
\_\_\_\_\_

Gentlemen:

In connection with the application filed with the Authority by (the "Owner") for low income housing credits made available pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, for low income units in (insert number of buildings in development) building(s) in the proposed reference Development, the undersigned, have made the following reviews:

1. Review of the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated pursuant thereto (the "Regulations") applicable to low income housing credits.
2. Review of each computation of credits submitted to you by the owner with respect to each applicable type of credit for each building of the development.
3. Review, made with the Owner, of the projections, facts and circumstances with respect to the computations of the amount of each applicable type of credit for each building in accordance with the applicable provisions of the Code and the Regulations

Based upon the foregoing reviews, we, the undersigned, are of the opinion that the computations have been made and calculated in conformity with the applicable provisions of the Code and Regulations.

Sincerely,



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

**GDB**

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX I

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

## ANNEX I: Attorney's Opinion Letter

[This Form Must Be Included With Application]

(This Opinion Must be Submitted Under Law Firm's Letterhead - Any changes to the form of opinion other than filling in blanks or making the appropriate selections in bracketed language must be accompanied by a black-lined version indicating all additional changes to the opinion. Altered opinions are subject to acceptance by the Authority and should be approved prior to the application deadline)

Date: \_\_\_\_\_

TO: Puerto Rico Housing Finance Authority  
P.O. Box 71361  
San Juan, Puerto Rico 00936-8461

RE: 2011 Low Income Housing Tax Credit Program  
Name of Project: \_\_\_\_\_  
Name of Owner: \_\_\_\_\_

Gentlemen:

This undersigned firm represents the above-referenced Owner as its counsel. It has received a copy of and has reviewed the completed application package (the "Application") dated \_\_\_\_\_ (of which this opinion is a part) submitted to you for the purpose of requesting, in connection with the captioned Development, a reservation of low income housing tax credits ("Credits") available under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"). It has also reviewed Section 42 of the Code, the regulations issued pursuant thereto and such other binding authority as it believes to be applicable to the issuance hereof (the regulations and binding authority hereinafter collectively referred to as the "Regulations").

Based upon the foregoing reviews and upon due investigation of such matters as it deems necessary in order to render this opinion, but without expressing any opinion as to either the reasonableness of the estimated or projected figures or the veracity or accuracy of the factual representations set forth in the Application, the undersigned is of the opinion that:

1. It is more likely than not that the inclusion in eligible basis of the Development of such cost items or portions thereof, as set forth in Parts 22, 23 and 24 of the Application, complies with all applicable requirements of the Code and Regulations.
2. The calculations (a) of the Maximum Allowable Credit available under the Code with respect to the Development in Part 23 of the Application and (b) of the Estimated Qualified Basis of each building in the Development in Page 16 of the Application comply with all applicable requirements of the Code and regulations, including the selection of credit type implicit in such calculations.

ATTORNEY'S OPINION LETTER, continued

3. The appropriate type(s) of allocation(s) have been requested in Part 2 of the Application.
4. The information set forth in Part 20 of the Application as to proposed rents satisfies all applicable requirements of the Code and Regulations.
5. The site of the captioned Development is controlled by the Owner, as identified in Part 15 of the Application, for a period of not less than four (4) months beyond the application deadline.
6. [Delete if inapplicable] The type of the nonprofit organization involved in the Development is an organization described in Code Section 501(c)(3) or 501(c)(4) and exempt from taxation under Code Section 501(a), whose purposes include the fostering of low-income housing.
7. [Delete if inapplicable] The nonprofit organization's ownership interest in the development is all the general partnership interests of the ownership entity of the development as described in Part 33 of the Application.
8. [Delete if inapplicable] It is more likely than not that the representations made under Part 22 of the Application as to the Development's compliance with or exception to the Code's minimum expenditure requirements for rehabilitation projects are correct.
9. [Delete if inapplicable] After reasonable investigation, the undersigned has no reason to believe that the representations made under Part 26 of the Application as to the Development's compliance with or eligibility for exception to the ten year "look-back-rule" requirement of Code §42(d)(2)(B) are not correct.

Finally, the undersigned is of the opinion that, if all information and representations contained in the Application and all current law were to remain unchanged, upon the placement in service of each building of the Development during this calendar year 20XX and/or, if the Owner intends to request all or any portion of its final allocation pursuant to Section 42(h)(1)(E) of the Code, upon compliance by the Owner with the requirements of such section, the Owner would be eligible under the applicable provisions of the Code and the Regulations to an allocation of Credits in the amount(s) requested in the Application.

This opinion is rendered solely for the purpose of inducing the Puerto Rico Housing Finance Authority (PRHFA) to issue a reservation of Credits to the Owner. Accordingly, it may be relied upon only by PRHFA and may not be relied upon by any other party for any other purpose.

\_\_\_\_\_  
Firm Name  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

(Title)



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX J

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

# ANNEX J: Designer's Preliminary Certification

[This Form Must Be Included With Application]

[This Opinion Must Be Submitted Under Designer Firm's Letterhead]

Date: \_\_\_\_\_

TO: Puerto Rico Housing Finance Authority  
P.O. Box 71361  
San Juan, Puerto Rico 00936-8461

RE: 2011 Low Income Housing Tax Credit Program  
Project Name: \_\_\_\_\_  
Owner: \_\_\_\_\_

Gentlemen:

The undersigned, an architect/engineer duly licensed and registered in Puerto Rico, will provide full design services, including without limitation, preparing for [project's owner], plans and specifications, in connection with the proposed construction/rehabilitation of a **(insert number of units in proposed development)** units project on certain real property known as [project's name] (the Premises).

The undersigned hereby certifies that:

1. The plans and specifications will be in compliance with the requirements of all municipal, local, state, and federal government authorities having jurisdiction thereover.
2. The condition of the Premises and the Project, after completion of the construction/rehabilitation in accordance with Plans and Specifications, will be in compliance with:
  - a. all government and municipal authorities having jurisdiction thereover;
  - b. all applicable zoning, building, fire and other federal, state, local laws, ordinances, rules, regulations, restrictions;
  - c. other requirements, including without limitations:
    - i. the Fair Housing Act,
    - ii. the American with Disabilities Act;
    - iii. other local and/or state access codes; and
    - iv. standards of professional practice.

Respectfully,

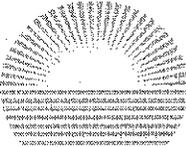
\_\_\_\_\_  
Firm Name

By: \_\_\_\_\_

Its: \_\_\_\_\_

(Title)

(SEAL)



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX K

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

**ANNEX K: DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW INCOME HOUSING CREDITS**

**DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING TAX CREDITS**

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING TAX CREDITS (this "Agreement"), dated as of     , by     , a [*limited partnership or limited liability company*] organized and existing under the laws of the State of     , and its successors and assigns (the "Owner") is given as conditions precedent to the allocation of low-income housing tax credits by Puerto Rico Housing Finance Authority, a public corporation subsidiary of the Government Development Bank, and an instrumentality of the Commonwealth of Puerto Rico (together with any successor its rights, duties and obligations, the "Authority").

**WITNESSETH**

WHEREAS, the Authority has been designated by the Governor of the Commonwealth of Puerto Rico as the housing tax credit agency for the Commonwealth of Puerto Rico for the allocation of low-income housing tax credit dollars pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, the Owner holds or will hold [*fee simple title or leasehold title*] to the real property located in the Municipality of     , of the Commonwealth of Puerto Rico, as more fully described in Exhibit A attached hereto and made a part hereto (the "Land"), known as or to be know as [*name of the project*] (the "Project");

WHEREAS, Owner has applied to the Authority for an allocation of low-income housing tax credit dollars (the "Tax Credits");

WHEREAS, the Owner has represented to the Authority in Owner's application that it will impose additional rent restrictions or will covenant to maintain the rent and income restrictions under Section 42 of the Code for a period of time of [*15 years plus the number of additional years beyond the original compliance period*] years;

WHEREAS, the Code has required as a condition precedent to the allocation of the Tax Credit that the Owner execute, deliver and record in the appropriate Registry of the Property the deed covering this Agreement in order to create certain covenants running with the land for the purpose of enforcing the requirements of Section 42 of the Code by

regulating and restricting the use, occupancy and transfer of the Project as set forth herein; and

WHEREAS, the Owner, under this Agreement, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project will be and are covenants running with the Land for the term stated herein and binding upon all subsequent owners of the Project for such term, and are not merely personal covenants of the Owner;

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner agrees as follows:

**SECTION 1 - DEFINITIONS**

All words and phrases defined in Section 42 of the Code and all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury, or the Internal Revenue Service, or the Department of Housing and Urban Development from time to time pertaining to Owner's obligations under Section 42 of the Code and affecting the Project (the "Regulations") will have the same meanings in this Agreement.

**SECTION 2 - FILING AND RECORDING; COVENANTS TO RUN WITH THE LAND**

a) Upon execution and delivery by the Owner, the Owner will cause this Agreement and all amendments hereto to be filed and recorded in the appropriate Registry of Property, and will pay all fees and charges incurred in connection therewith. Upon filing, the Owner will immediately transmit to the Authority a certified copy of the filed deed showing the date, volume and page numbers of record. The owner agrees that the Authority will not issue the Internal Revenue Service Form 8609 constituting final allocation of the Tax Credit unless and until the Authority has received the filed certified copy of the deed containing the land use in this Agreement.

b) The Owner intends, declares, and covenants, on behalf of itself and all future owners and operators of the Project during the term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement regulating and restricting the use, occupancy and transfer of the Land and the Project (i) will be and are covenants running with the Land, encumbering the Project for the term of this Agreement, binding upon the Owner's successors in title and all subsequent owners and operators of the Project, (ii) are not merely personal covenants of the Owner, and (iii) will bind the Owner (and the benefits will inure to the Authority and any past, present or prospective tenant of the Project) and its respective successors and assigns during the term of this Agreement.

The Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Puerto Rico to be satisfied in order for the provisions of this

Agreement to constitute deed restrictions and covenants running with the land will be deemed to be satisfied in full, and that any requirements of privileges of estate are intended to be satisfied. For the longer of the period this Tax Credit is claimed or the term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof will expressly provide that such conveyance is subject to this Agreement, provided, however, the covenants contained herein will survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Agreement.

c) The Owner covenants to obtain the consent of any prior recorded lienholder on the Project to this Agreement and such consent will be a condition precedent to the issuance of Internal Revenue Service Form 8609 constituting final allocation of the Tax Credit.

### **SECTION 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER**

The Owner hereby represents, covenants and warrants as follows:

(a) The Owner (i) is a [limited partnership or limited liability company] duly organized and existing under the laws of the State of   , and is qualified to transact business under the laws of the Commonwealth of Puerto Rico, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Owner (i) will not violate or, as applicable, have not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, have not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Owner is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Owner will, at the time of execution and delivery of this Agreement, have good and marketable title to the Land constituting the Project free and clear on any lien or encumbrance (subject of encumbrances created pursuant to this Agreement, any Loan Documents relating to the Project or other permitted encumbrances).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

(e) The Project constitutes or will constitute a qualified low-income building or qualified low-income project, as applicable, as defined in Section 42 of the Code and the Regulations.

(f) Each unit in the Project contains complete facilities for living, sleeping, eating, cooking and sanitation (unless the Project qualifies as a single-room occupancy project or transitional housing for the homeless), which are to be used on other than a transient basis.

(g) During the term of this Agreement, all units subject to the Tax Credit will be leased and rented, or made available to members of the general public who qualify as Low-Income Tenants (or otherwise qualify for occupancy of the low-income units) under the applicable election specified in Section 42(g) of the Code.

(h) The Owner agrees to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended.

(i) During the term of this Agreement, the Owner covenants, agrees and warrants that each low-income unit is and will remain suitable for occupancy.

(j) Subject to the requirements of Section 42 of the Code and this Agreement, the Owner may sell, transfer or exchange the entire Project at any time, but the Owner will notify in writing and obtain the agreement in writing of any buyer or successor or other person acquiring the Project or any interest therein that such acquisition is subject to the requirements of this Agreement and to the requirements of Section 42 of the Code and the Regulations. This provision will not act to waive any other restriction on sale, transfer or exchange of the Project or any low-income portion of the Project. The Owner agrees that the Authority may void any sale, transfer or exchange of the Project if the buyer or successor or other person fails to assume in writing the requirements of this Agreement and the requirements of Section 42 of the Code.

(k) The Owner agrees to notify the Authority in writing of any sale, transfer or exchange of the entire Project or any low-income portion of the Project.

(l) The Owner will not demolish any part of the Project or substantially subtract from any real or personal property of the Project or permit the use of any residential rental unit for any purpose other than rental housing during the term of this Agreement unless required by law.

(m) The Owner represents, warrants and agrees that if the Project, or any part thereof, will be damaged or destroyed or will be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement.

(n) The Owner warrants that it has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

(o) The Owner agrees that it will not refuse to lease any low-income unit in the Project to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, as amended, because of the status of the prospective tenant as such a holder.

#### SECTION 4 - INCOME RESTRICTION; RENTAL RESTRICTIONS

The Owner represents, warrants and covenants throughout the term of this Agreement and in order to satisfy the requirements of Section 42 of the Code ("Section 42 Occupancy Restrictions") that:

(a) 1  At least 20% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 50% or less of area median income; or

2  At least 40% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 60% or less of area median income.

(b) The determination of whether a tenant meets the low-income requirement will be made by the Owner at least annually on the basis of the current income of such Low-Income Tenant.

(c) The applicable fraction (as defined in Section 42(c)(1)(B) of the Code for each taxable year during the term of this Agreement will be not less than 1 %.

(d) Throughout the term of this Agreement the low-income units will rent for at least 1 % lower than the maximum gross rent allowed under Section 42 of the Code.

#### SECTION 5 - TERM OF THE AGREEMENT

(a) Except as hereinafter provided, this Agreement herein will commence with on first day in the Project period on which any building which is part of the Project is placed in service and will end on the date which is 1 years after the close of the compliance period (the "Extended Use Period").

(b) Notwithstanding subsection (a) above, the Owner will comply with the requirements of Section 42 of the Code relating to the Extended Use Period; provided, however, the Extended Use Period for any building which is part of this Project will terminate on the date the building is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary of the United States Treasury Department determines

that such acquisition is part of an arrangement with Owner a purpose of which is to terminate such period.

(c) Notwithstanding subsection (b) above, the Owner will not evict or terminate the tenancy (other than for good cause) of an existing tenant of any low-income unit and will not increase the gross rent above the maximum allowed under the Code with respect to such low-income unit for the entire term of the Extended Use Period, regardless of whether such Extended Use Period is terminated by foreclosure or instrument in lieu of foreclosure relating to such building (such restrictions collectively referred to as the "Vacancy Controls").

**SECTION 6 - ENFORCEMENT OF THE OCCUPANCY RESTRICTIONS**

(a) The Owner will permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority, to inspect any books and records of the Owner regarding the Project with respect to the incomes of Low-Income Tenants which pertain to compliance with the Section 42 Occupancy Restrictions and the Vacancy Controls specified in this Agreement.

(b) The Owner will submit any other information, documents or certifications requested by the Authority, which the Authority will deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of the Occupancy Restrictions and the Vacancy Controls specified in this Agreement.

**SECTION 7 - ENFORCEMENT OF SECTION 42 OF THE CODE OCCUPANCY RESTRICTIONS**

(a) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code and the Regulations. Moreover, Owner covenants to take any lawful action (including amendment of this Agreement as may be necessary, in the opinion of the Authority) to comply fully with the Code and with the Regulations.

(b) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Agreement is to assure compliance of the Project and the Owner with Section 42 of the Code and Regulations, AND BY REASON THEREOF, THE OWNER IN CONSIDERATION FOR RECEIVING LOW-INCOME HOUSING TAX CREDITS FOR THIS PROJECT HEREBY AGREES AND CONSENTS THAT THE AUTHORITY AND ANY INDIVIDUAL WHO MEETS THE INCOME LIMITATION APPLICABLE UNDER SECTION 42 OF THE CODE (WHETHER PROSPECTIVE, PRESENT OR FORMER OCCUPANT) WILL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE OWNER OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN A COURT OF COMPETENT JURISDICTION. The Owner hereby further specifically acknowledges that the beneficiaries of the Owner's obligations

hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

(c) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the Authority and all persons interested in Project compliance under Section 42 of the Code and Regulations.

(d) The Owner agrees that if at any point following execution of this Agreement, Section 42 of the Code or the Regulations require the Authority to monitor the Section 42 Occupancy Restrictions, or, alternatively, the Authority chooses to monitor Section 42 Occupancy Restrictions or the Occupancy Restrictions, the Owner will take any and all actions reasonably necessary and required by the Authority to substantiate the Owner's compliance with the Section 42 Occupancy Restrictions or Occupancy Restrictions and will pay the fee established by the Authority in its Allocation Plan for such monitoring activities performed by the Authority.

**SECTION 8 - MISCELLANEOUS**

(a) Severability. The invalidity of any clause, part or provision of this Agreement will not affect the validity of the remaining portion thereof.

(b) Notices. All notices to be given pursuant to this Agreement will be in writing and will be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

To the Authority

Puerto Rico Housing Finance Authority  
P O Box 71361  
San Juan, PR 00936-8461

ATTENTION: Low-income Housing  
Tax Credit Program

To the Owner:

[ ]

ATTENTION: [ ]

The Authority, and the Owner, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications will be sent.

(c) Amendment. The Owner agrees that it will take all actions necessary to effect amendment of this Agreement as may be necessary to comply with the Code and the Regulations.

(d) Subordination of Agreement. This Agreement and the restrictions hereunder are subordinate to the loan and loan documents, if any, on the Project except for the

Vacancy Controls specified herein and insofar Section 42 of the Code and the Regulations require otherwise.

(e) Governing Law. This Agreement will be governed by the laws of the Commonwealth of Puerto Rico and, where applicable, the laws of the United States of America.

(f) Survival of Obligation. The obligations of the Owner as set forth herein and in the Application will survive the allocation of the Tax Credit and will not be deemed to terminate or merge with the awarding of the allocation.

IN WITNESS WHEREOF, the Owner has caused this Agreement to be signed by its duly authorized representatives, as of the day and year first written above.

[ ]

BY: [ ] , [General Partner or Managing Member]

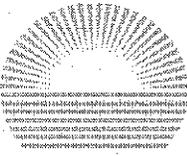
BY: \_\_\_\_\_

[ ]  
[Title ]

**PUERTO RICO HOUSING FINANCE AUTHORITY**

BY: \_\_\_\_\_

[ ]  
Executive Director



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX L

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

**ANNEX L: INDEPENDENT ACCOUNTANT'S REPORT  
10% PERCENT TEST CERTIFICATION**

(To be submitted on Auditor Firm's letterhead)

Date:

To: PUERTO RICO HOUSING FINANCE AUTHORITY  
P.O. Box 71361  
San Juan, PR 00936-8461

and

Owner: \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

Re: Project Name: \_\_\_\_\_  
Application Number \_\_\_\_\_  
Owner Tax ID: \_\_\_\_\_

We have examined the accompanying Certification of Costs Incurred ("Exhibit A") of the Owner for (The Project) as of \_\_\_\_\_, 20\_\_\_\_. Exhibit A is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on Exhibit A based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting Exhibit A and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

The accompanying Exhibit A was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by the Puerto Rico Housing Finance Authority ("PRHFA"), which is a comprehensive basis of accounting other than generally accepted accounting principles.

The 10% Test includes an estimate prepared by Owner of total development costs and reasonably expected basis, as defined in Treasury Regulation Section 1.42-6. We have not examined or performed any procedures in connection with such estimated total development costs and reasonably expected basis and, accordingly, we do not express any opinion or any other form of assurance on such estimates. Furthermore, even if the Project is developed and completed there will usually be differences between the projected and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.

In our opinion, Exhibit A referred to above presents fairly, in all material respects, costs incurred for the Project as of \_\_\_\_\_, 20\_\_\_\_, on the basis of accounting described above.

In addition to examining Exhibit A, we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to this Project. These procedures, which were agreed to by the Owner

and PRHFA, were performed to assist you in determining whether the Project has met the 10% test in accordance with the Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation 1.42-6. These agreed-upon procedures were performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

1. We calculated, based on estimates of total development costs provided by the Owner, the Project's total reasonably expected basis, as defined in Treasury Regulation Section 1.42-6, to be \$\_\_\_\_ as of \_\_\_\_\_, 20\_\_.
2. We calculated the reasonably expected basis incurred by the Owner as of \_\_\_\_\_, 20\_\_ to be \$\_\_\_\_\_.
3. We calculated the percentage of the development fee incurred by the Owner as of \_\_\_\_\_, 20\_\_ to be \_\_\_\_\_% of the total development fee.
4. We compared the reasonably expected basis incurred as of \_\_\_\_\_, 20\_\_ to the total reasonably expected basis of the Project and calculated that \_\_\_\_\_% had been incurred as of \_\_\_\_\_, 20\_\_.
5. We determined that Owner uses the accrual method of accounting, and has not included any construction costs in carryover allocation basis that have not been properly accrued.
6. Based on the amount of total reasonably expected basis listed above, for the Owner to meet the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, we calculated that the Project needed to incur at least \$\_\_\_\_\_ of costs prior to December 31, 20\_\_. As of 20\_\_ costs of at least \$\_\_\_\_\_ had been incurred, which is approximately \_\_\_\_\_% of the total reasonably expected basis of the Project.

We were not engaged to, and did not perform an audit of the Owner's financial statements or of the Project's total reasonably expected basis. Furthermore, even if the Project is developed and completed there will usually be differences between the projected and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Owner and the Owner's management and for filing with PRHFA and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

---

Name of Professional's Firm

---

Date

---

Signature of Professional

---

Title of Signatory

---

---

Printed Name of Signatory

**EXHIBIT A TO INDEPENDENT AUDITOR'S REPORT FOR CARRYOVER ALLOCATION  
ITEMIZED EXPENDITURES  
AS OF**

	PROJECT'S EXPECTED BASIS	ELIGIBLE 10% TEST EXPENDITURE	EXPENDITURES AS % OF EXPECTED BASIS
<b>LAND AND BUILDING*</b>			
Land Costs	\$ _____	\$ _____	_____ %
Existing Structures	\$ _____	\$ _____	_____ %
On-site Work	\$ _____	\$ _____	_____ %
Off-site Work	\$ _____	\$ _____	_____ %
Garages	\$ _____	\$ _____	_____ %
Other**	\$ _____	\$ _____	_____ %
<b>TOTAL</b>	\$ _____	\$ _____	_____ %

<b>REHABILITATION OR CONSTRUCTION COSTS</b>			
New Building	\$ _____	\$ _____	_____ %
Rehabilitation	\$ _____	\$ _____	_____ %
Accessory Buildings	\$ _____	\$ _____	_____ %
Contractor Overhead	\$ _____	\$ _____	_____ %
Contractor Profit	\$ _____	\$ _____	_____ %
General Requirements	\$ _____	\$ _____	_____ %
Construction Contingency	\$ _____	\$ _____	_____ %
Fees	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
<b>TOTAL</b>	\$ _____	\$ _____	_____ %

<b>PROFESSIONAL FEES</b>			
Architect	\$ _____	\$ _____	_____ %
Architect - Supervision	\$ _____	\$ _____	_____ %
Engineer/Surveyor	\$ _____	\$ _____	_____ %
Attorney	\$ _____	\$ _____	_____ %
Accountant	\$ _____	\$ _____	_____ %
Consultant Fees	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
<b>TOTAL</b>	\$ _____	\$ _____	_____ %

<b>CONSTRUCTION PERIOD COSTS</b>			
Insurance	\$ _____	\$ _____	_____ %
Bond Premium	\$ _____	\$ _____	_____ %
Construction Loan Interest	\$ _____	\$ _____	_____ %
Loan Origination Fee	\$ _____	\$ _____	_____ %
Taxes and Fees	\$ _____	\$ _____	_____ %
Title and Recording	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
<b>TOTAL</b>	\$ _____	\$ _____	_____ %

**PERMANENT FINANCING** \$ \_\_\_\_\_

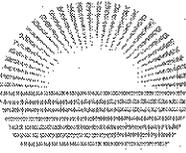
	PROJECT'S EXPECTED BASIS	ELIGIBLE 10% TEST EXPENDITUR	EXPENDITURES AS % OF EXPECTED BASIS
<b>SOFT COSTS</b>			
Market Study	\$ _____	\$ _____	_____ %
Environmental Study	\$ _____	\$ _____	_____ %
Appraisal	\$ _____	\$ _____	_____ %
Tax Credit Fees	\$ _____	\$ _____	_____ %
Cost Certification	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
<b>TOTAL</b>	\$ _____	\$ _____	_____ %
<b>SYNDICATION COSTS**</b>	\$ _____		
<b>DEVELOPER FEES ***</b>			
Developer Fees	\$ _____	\$ _____	_____ %
Consultant	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
<b>TOTAL</b>	\$ _____	\$ _____	_____ %
<b>PROJECT RESERVES</b>	\$ _____		
<b>TOTAL DEVELOPMENT COSTS****</b>	\$ _____	\$ _____	_____ %
<b>FEES PAID TO RELATED ENTITIES***</b>			
Related Entity	\$ _____	\$ _____	_____ %
Related Entity	\$ _____	\$ _____	_____ %
Related Entity	\$ _____	\$ _____	_____ %
<b>TOTAL</b>	\$ _____	\$ _____	_____ %

\* Legal fees and interest expense related to the land must be broken out and entered in this category.

\*\* All Syndication costs must be separated from other project costs and included on this line.

\*\*\* If any portion of the developer fee is deferred, supporting documentation must be submitted (e.g. promissory note).

\*\*\*\* All fees, including the developer fee, which are paid to the developer or to any entity with an identity of interest with the developer must be clearly identified in the section, entitled Fees Paid to Related Entities.



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX M

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

**ANNEX M: FINAL COST CERTIFICATION**

Independent Accountant's Report  
 (Must be submitted with Final Cost Certification)  
 (To be submitted under Accounting's Firm Letterhead)

Date: \_\_\_\_\_

To: Puerto Rico Housing Finance Authority  
 P.O. Box 71361  
 San Juan, PR 00936-8461

Re: Name of Project  
Address of Project  
Project Owner  
Project Building Identification Number (BIN)

We have examined the accompanying Puerto Rico Housing Finance Authority ("PRHFA") Final Cost Certification (the "Final Cost Certification") of insert Owner's name (the "Owner") for (insert Project's Name) (the "Project") as of \_\_\_\_\_, 20\_\_\_\_. The Final Cost Certification is responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on the Final Cost Certification based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the Final Cost Certification and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

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

In our opinion the Final Cost Certification presents fairly, in all material respects, the actual costs of \$\_\_\_\_\_ and eligible basis of \$\_\_\_\_\_ of the Owner for the Project as of \_\_\_\_\_, 20\_\_\_\_, on the basis of accounting described above.

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

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

/s/Independent Auditors

**INDEPENDENT AUDITOR'S REPORT  
FINAL COST CERTIFICATION**

**SCHEDULE A: ITEMIZED COSTS & ELIGIBLE BASIS**

ITEMIZED COSTS	Final Costs	Eligible Basis by Credit Type	
		4% Credit	9% Credit
<b>LAND AND BUILDING *</b>			
1 Land Costs	\$	\$	\$
2 Existing Structures	\$	\$	\$
3 Acquisition Fees	\$	\$	\$
4 Other: _____	\$	\$	\$
<b>5 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

<b>SITE WORK</b>			
6 On-site Work	\$	\$	\$
7 Off-site Work	\$	\$	\$
8 Other: _____	\$	\$	\$
<b>9 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

<b>REHABILITATION OR CONSTRUCTION COSTS</b>			
10 New Building	\$	\$	\$
11 Rehabilitation	\$	\$	\$
12 Accessory Buildings	\$	\$	\$
13 Contractor Overhead	\$	\$	\$
14 Contractor Profit	\$	\$	\$
15 General Requirements	\$	\$	\$
16 Construction Contingency	\$	\$	\$
17 Fees	\$	\$	\$
18 Other: _____	\$	\$	\$
<b>19 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

<b>PROFESSIONAL FEES</b>			
20 Design	\$	\$	\$
21 Supervision	\$	\$	\$
22 Engineer/Surveyor	\$	\$	\$
23 Real Estate Attorney	\$	\$	\$
24 Consultant Fees	\$	\$	\$
25 Other: _____	\$	\$	\$
<b>26 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

<b>INTERIM COSTS</b>			
27 Insurance	\$	\$	\$
28 Bond Premium	\$	\$	\$
29 Construction Loan Interest	\$	\$	\$
30 Loan Origination Fee	\$	\$	\$
31 Taxes and Fees	\$	\$	\$
32 Title and Recording	\$	\$	\$
33 Other: _____	\$	\$	\$
<b>34 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

ITEMIZED COSTS	Final Costs	Eligible Basis by Credit Type	
<b>PERMANENT FINANCING</b>			
35 Bond Premium	\$	\$	\$
36 Credit Report	\$	\$	\$
37 Loan Origination Fee	\$	\$	\$
38 Legal Fees	\$	\$	\$
39 Title and Recording	\$	\$	\$
40 Other: _____	\$	\$	\$
<b>41 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>SOFT COSTS</b>			
42 Market Study	\$	\$	\$
43 Environmental Study	\$	\$	\$
44 Appraisal	\$	\$	\$
45 Tax Credit Fees	\$	\$	\$
46 Cost Certification	\$	\$	\$
47 Rent Up	\$	\$	\$
48 Other: _____	\$	\$	\$
<b>49 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>SYNDICATION COSTS **</b>			
50 Organizational	\$	\$	\$
51 Tax Opinion and Title Policy	\$	\$	\$
52 Other: _____	\$	\$	\$
<b>53 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>DEVELOPER FEES</b>			
54 Developer Fees	\$	\$	\$
55 Consultant	\$	\$	\$
56 Other: _____	\$	\$	\$
<b>57 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>PROJECT RESERVES</b>			
58 Rent Up	\$	\$	\$
59 Operating Reserve	\$	\$	\$
60 Other: _____	\$	\$	\$
<b>61 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>OTHERS</b>			
62 Working Capital	\$	\$	\$
63 Bridge Loan	\$	\$	\$
64 Other: _____	\$	\$	\$
<b>65 TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>66 TOTAL DEVELOPMENT COSTS</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

\* Legal fees and interest expense related to the land must be broken out and entered in this category.

\*\* All Syndication costs must be separated from other project costs and included on this line.

**SCHEDULE B: QUALIFIED BASIS TEST**

1. <b>Total Development Costs</b> (Line 66 from Schedule A):		<u>\$</u>
Less Costs Ineligible for Tax Credit Basis (from Schedule A):		
Land (Line 5)	<u>\$</u>	
Market Study (Line 42)	<u>\$</u>	
Permanent Financing Fees (Line 41)	<u>\$</u>	
Syndication Costs (Line 53)	<u>\$</u>	
Project Reserves (Line 61)	<u>\$</u>	
Other: _____	<u>\$</u>	
Other: _____	<u>\$</u>	
2. <b>Eligible Basis</b>		<u>\$</u>
Total Number of Units	_____	
Total Number of Low Income Units	_____	
3. <b>Applicable Fraction</b> ***		<u>  </u> %
4. <b>Qualified Basis</b> (Applicable Fraction x Eligible Basis)		<u>\$</u>
Difficult to Develop Area Adjustment, <u>if applicable</u>		130 %
5. <b>Total Eligible Basis</b> (Qualified Basis x 130%)		<u>\$</u>
Tax Credit Rate (as stated in Carryover Allocation Agreement)		<u>  </u> %
6. <b>Annual Tax Credit - Qualified Basis Test</b> (Total Eligible Basis x Tax Credit Rate)		<u>\$</u>

\*\*\* Use the smaller of the unit fraction (LI units/residential units) or the floor space fraction (LI unit floor space/residential unit floor space)

**SCHEDULE C: EQUITY GAP TEST**

1. Total Development Costs (Line 66 from Schedule A)		\$	_____
2. Permanent Financing Sources*			
First Mortgage:	\$	_____	
Second Mortgage		_____	
Grants		_____	
Owner Equity		_____	
Other: _____		_____	
TOTAL		\$	_____
3. <b>Equity Gap</b>		\$	_____
(Line 1 less Line 2 Total)			
4. Syndication Rate (net cent per credit \$)			_____
5. Investor Ownership Percentage			_____
6. 10 year Credit Allocation		\$	_____
[Line 3/(Line 4 multiplied by Line 5)]			
7. <b>Annual Credit - Equity Gap Test</b>		\$	_____
(Line 6 divided by 10)			

\* In general these funding sources should include only permanent financing sources of cash funding expected to be repaid out of project operations. Do not include deferred fees, such as deferred developer fees or imputed capital for which cash is not received.

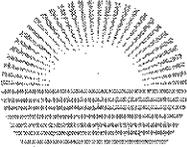
**Schedule D: ANNUAL TAX CREDIT DETERMINATION**

A. <b>Tax Credit Allocation</b> (From Carryover Allocation Agreement)	\$ _____
B. <b>Annual Tax Credit - Qualified Basis Test</b> (Schedule B - Line 6)	\$ _____
C. <b>Annual Tax Credit - Equity Gap Test</b> (Schedule C - Line 7)	\$ _____
D. <b>Final Tax Credit Determination **</b> (the lowest amount between lines A, B or C)	\$ _____
E. <b>Returned Credits (Line A less Line D)</b> (If zero or less, enter 0)	\$ _____

\*\* The actual allocation may be less than this amount.

Exhibit A  
 Schedule E: Qualified Basis on a Building by Building Basis:

	Address (must be complete)	30% PV				70% PV				Place in Service Date
		Eligible Basis	Square Feet	Applicable Fraction	Qualified Basis	Eligible Basis	Square Feet	Applicable Fraction	Qualified Basis	
1)		\$			\$				\$	
2)		\$			\$				\$	
3)		\$			\$				\$	
4)		\$			\$				\$	
5)		\$			\$				\$	
6)		\$			\$				\$	
7)		\$			\$				\$	
8)		\$			\$				\$	
9)		\$			\$				\$	
10)		\$			\$				\$	
<b>TOTALS</b>		\$			\$				\$	



# PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

## GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



# ANNEX N

## QUALIFIED ALLOCATION PLAN 2012

REV.  
DEC 2011

**ANNEX N: Designer's Certification of Completion of Construction**

**[This Form Must Be Included With the Final Cost Certification]**  
**[This Opinion Must Be Submitted Under Designer Firm's Letterhead]**

Date: \_\_\_\_\_

TO: Puerto Rico Housing Finance Authority  
P.O. Box 71361  
San Juan, Puerto Rico 00936-8461

RE: Low Income Housing Tax Credit Program  
Project: \_\_\_\_\_  
Owner: \_\_\_\_\_

Gentlemen:

The undersigned, an architect/engineer duly licensed and registered in Puerto Rico, has provided full design services, including without limitation, preparing for [project's owner], final plans and specifications, pursuant to certain agreement between the undersigned and the owner dated \_\_\_\_\_ in connection with the construction/rehabilitation of a **(insert number of units in project)** units project on certain real property known as **[insert project's name]** (the Premises).

The undersigned hereby certifies that:

1. The plans and specifications comply with and conform in all respects to the requirements of law, have been duly filed with and have been approved by Regulations & Permits Administration (ARPE by its Spanish acronym); or the Autonomous Municipality of \_\_\_\_\_ (as the case may be).
2. Upon examination of the Premises, the Project, the plans and specifications after completion of the construction/rehabilitation we have concluded that the construction is in compliance with:
  - a. all government and municipal authorities having jurisdiction thereover;
  - b. all applicable zoning, building, fire and other federal, state, local laws, ordinances, rules, regulations, restrictions;
  - c. other requirements, including without limitations:
    - i. the Fair Housing Act,
    - ii. the American with Disabilities Act;
    - iii. other local and/or state access codes; and
    - iv. standards of professional practice

Respectfully,

\_\_\_\_\_  
Firm Name  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
(Title)

(SEAL)