



COMMONWEALTH OF  
PUERTO RICO

Puerto Rico Housing Finance  
Authority

SUBSIDIARY OF THE GOVERNMENT DEVELOPMENT BANK  
FOR PUERTO RICO

# LOW-INCOME HOUSING TAX CREDIT PROGRAM

# QUALIFIED ALLOCATION PLAN

## 2016

REV. JUNE 2016

JUAN C. CORDERO BUILDING  
606 BARBOSA AVENUE – 3RD FLOOR  
RÍO PIEDRAS, PUERTO RICO 00919-0345  
PHONE: (787) 765-7577 - FAX: (787) 620-3523  
[www.afv.pr.gov](http://www.afv.pr.gov)



PUERTO RICO HOUSING FINANCE  
AUTHORITY

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**LOW-INCOME HOUSING TAX CREDIT  
 2016 ALLOCATION PLAN  
 PUERTO RICO HOUSING FINANCE AUTHORITY**

**TABLE OF CONTENTS**

<b>FOREWORD</b> .....	iv
<b>1. Legislative Requirements for the State Allocation Plan (Allocation Plan)</b> .....	1
<b>2. Internal Revenue Code Requirements</b> .....	1
<b>3. Housing Needs Assessment</b> .....	2
3.1. Priorities identified in the Puerto Rico State Housing Plan: 2014-2018 .....	2
3.2. Housing Needs Puerto Rico State Housing Plan: 2014-2018 .....	3
<b>4. Housing Priorities</b> .....	4
4.1. Criteria .....	4
4.2. Basis Boost Policy: 30% basis boost. ....	4
4.3. Set-Asides .....	5
<b>5. Tax Credit Allocation Methodology and Criteria</b> .....	6
5.1. Initial Submission - Basic Threshold Qualifications .....	6
5.2. Development Budget and Pro Forma Assumptions Review .....	14
5.2.1. Description .....	14
5.2.2. Allowable costs and expenses.....	15
5.2.3. Underwriting Parameters.....	17
5.2.4. Record and Notification .....	19
5.3. Underwriting and Financial Feasibility Analysis .....	19
5.3.1. Description .....	19
5.3.2. Pro-forma statements .....	20
5.4. Project Evaluation and Selection (Point Ranking System) .....	20
5.4.1. Description .....	20
5.4.2. Point Scoring.....	24

5.5. Tax Credit Allocation .....	35
5.5.1. Description .....	35
5.5.2. Allocation of Other Authority Administered Funds .....	35
5.5.3. Notification of Tax Credit Allocation .....	36
5.5.4. Review .....	36
<b>6. Issuance of Tax Credits .....</b>	<b>37</b>
6.1. Reservation of Tax Credits Beyond Actual Allocation Year .....	37
6.2. Additional Tax Credits .....	39
6.3. Placed-in-Service .....	39
6.4. Changes of Actual Development Costs or Other Circumstances .....	40
6.5. Calendar Requirements.....	40
6.6. Placed-in-Service Date.....	40
<b>7. Other Procedural Requirements .....</b>	<b>41</b>
<b>8. Timeframe.....</b>	<b>41</b>
8.1. Schedule of Application for 2016 Cycle.....	42
<b>9. Tax-Exempt Financed Projects not Subject to Annual Tax Credit Volume Cap.....</b>	<b>42</b>
<b>10. Qualified Contract Process .....</b>	<b>42</b>
<b>11. Compliance, Fees and Penalties.....</b>	<b>43</b>
11.1. Procedure for Notification to IRS of Noncompliance.....	43
<b>12. Fees .....</b>	<b>43</b>
12.1. Application Related Fees .....	44
12.2. Allocating Fee .....	44
12.3. Qualified Contract Request Fee .....	44
12.4. Monitoring/Asset Management Fee.....	45
<b>13. Penalties and Other Fees.....</b>	<b>45</b>
<b>14. Scope and Future Amendments.....</b>	<b>46</b>

## LIST OF ANNEXES

- A. Internal Revenue Code §42 – Low-Income Housing Credit
- B. Intentionally Left Blank
- C. Rent Restrictions and Income Limits for 2016
- D. List of Qualified Census Tract and Difficult to Develop Areas
- E. Form for Binding Agreement
- F. Fair Housing Act Accessibility Requirements
- G. Form for Owner’s Certification
- H. Form for Accountant’s Opinion
- I. Form for Attorney’s Opinion
- J. Form for Preliminary Designer’s Opinion
- K. Form for Declaration of Land Use Restrictive Covenants
- L. Form for 10% Cost Certification
- M. Form for Final Cost Certification
- N. Form of Completion of Construction-Designer’s Opinion
- O. Compliance Monitoring Plan
- P. Qualified Contract Process
- Q. Maps
  - 1. Q-1 *Centros Urbanos*
  - 2. Q-2 *Zonas Históricas*
  - 3. Q-3 *Reglamento de la Ordenación de la Infraestructura en el Espacio Público (Reglamento de Planificación Número 22)*

## FOREWORD

Congress adopted the Low-Income Housing Tax Credit Program (Tax Credits)<sup>1</sup> as part of the Tax Reform Act of 1986 (see Annex A). The Tax Credits provide a financial incentive to construct, rehabilitate, and operate rental housing for low-income tenants. A 10-year Tax Credit is available for each unit set-aside for low-income use as long as eligible households occupy a specific proportion of units in a building or project. The rents charged on the set-aside units are restricted and eligible households must occupy them or such units becoming vacant must be held open for eligible households for at least 15 years, plus a minimum of 15 additional years that Puerto Rico Housing Finance Authority (Authority) requires.

As part of the joint efforts and on-going initiatives that relate to the 2014-2018 Puerto Rico State Housing Plan, the Authority will make this 2016 QAP (QAP) a component of the forthcoming Notice of Funding Availability that the Authority will issue. The NOFA intends to leverage other funds from multiple sources (e.g., HOME) under joint underwriting criteria compatible with the QAP in order to maximize the use of public and private funds channeled to affordable rental projects meeting the housing needs and goals established in the 2014-2018 State Housing Plan. Nonetheless, any representation and/or guideline contained in the NOFA will not be intended to, nor it statutorily could, modify or supersede the Authority's responsibility to comply with Section 42 requirements as the U.S. Internal Revenue Code applies to state allocating agencies.

IRS Revenue Procedure 2015-53 changed the 2016 Tax Credit to the greater of the annual per capita Tax Credit of \$2.35 or \$2,690,000. The population of Puerto Rico is 3,474,182 based on Internal Revenue Notice 2016-24 of March 28, 2016. The 2016 annual per capita cap multiplied by the population of Puerto Rico represents \$8,164,328 in Tax Credits. The Authority will only have estimated 2018 and 2019 per capita Tax Credits available for allocation. The estimate is based on 2016 figures: \$15,374,656 in annual Tax Credits, of which \$1,537,466 will be for the Nonprofit Set-Aside, \$7,500,000 for the Public Housing Set-Aside and \$6,337,190 for private projects. Should legal and/or economic circumstances warrant a modification, the Authority may exert its discretion to comply with the applicable environment.

All procedural and substantive criteria contained in the 2016 QAP supersede any criteria published in previous allocation plans.

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<sup>1</sup> Tax Credits refer to the LIHTC Program as well as the amount of individual tax credits according to the text.

**PUERTO RICO HOUSING FINANCE AUTHORITY  
A SUBSIDIARY OF THE GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO  
STATE CREDIT AUTHORITY**

**2016**

**Low-income Housing Tax Credit Allocation Plan**

**1. Legislative Requirements for the State Allocation Plan (Allocation Plan)**

The Omnibus Budget Reconciliation Act of 1989 mandated that state housing credit agencies adopt plans for the allocation of the Tax Credits among qualified low-income housing projects. The Governor of Puerto Rico (Governor) must approve the Allocation Plan after the public has had the opportunity to comment through a public hearing.

The guidelines and requirements set forth in this Allocation Plan will be utilized in the processing of Tax Credits.

**2. Internal Revenue Code Requirements**

The housing credit authority for the Commonwealth of Puerto Rico is the Puerto Rico Housing Finance Authority (Authority). Section 42(m)(1)(B) of the Internal Revenue Code of 1986, as amended (Code), requires the Allocation Plan to:

- Set forth the selection criteria to determine housing priorities appropriate to local conditions.
- Gives preference in allocating housing credit dollar amounts among selected projects to those:
  - serving the lowest income tenants; and
  - obligated to serve qualified tenants for the longest periods; and located in qualified census tracts and the development of which contributes to a concerted community revitalization plan.
- Create a procedure that the Authority will follow in monitoring noncompliance, notifying the Internal Revenue Service (IRS) of such noncompliance, and monitoring for noncompliance with the provisions of the Tax Credits.

Section 42(m)(1)(C) of the Code requires the Allocation Plan to include certain selection criteria:

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

- project location;
- housing needs characteristics;
- project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan;
- sponsor characteristics;
- tenant populations with special housing needs;
- public housing waiting lists;
- tenant populations of individuals with children;
- projects intended for eventual tenant ownership;
- energy efficiency of the project; and
- historic nature of the project.

Every project, including those financed with tax-exempt bonds issued after December 31, 1989, must satisfy the requirements for allocation of Tax Credits.

The Authority may use, at its discretion, the priorities and point rankings set forth to allocate certain other funding sources that it is entrusted to administer by state law or Board of Directors Resolutions. Furthermore, the Authority encourages and promotes the leverage of private and public funds in order to maximize the utilization of tax credits and to create a larger affordable housing stock.

### **3. Housing Needs Assessment**

#### **3.1. Priorities identified in the Puerto Rico State Housing Plan: 2014-2018**

The Plan takes into account economic, market and demographic factors relevant to housing needs in Puerto Rico, as well as the opinions of key stakeholders of local challenges affecting the provision of safe and decent housing. The 2014-2018 State Housing Plan is based on the premise that housing is not just the provision of shelter. Housing is part of an intricate web of relationships that incorporate factors in different areas and housing policies require inclusive and integrated approaches. Thus, they cannot be considered in isolation from economic, social and physical influences.

Supported by specific actions, the policies of the Plan target the:

- gap between the need for housing at affordable prices or rents, and available supply for working families, the elderly, single headed households, and young families seeking entry level housing, while minimizing sprawl, as well as travel costs and energy costs, both of which impose a heavy burden on moderate and low-income families;
- integrated approaches that respond to the specific housing needs of a rapidly growing and low-income elderly population;
- provision of permanent housing, together with the provision of needed supporting services; and
- flexibility necessary in planning and land use regulations to facilitate the construction and rehabilitation of affordable housing, support the development of rural housing, and deal with urban rehabilitation issues.

### **3.2. Housing Needs Puerto Rico State Housing Plan (2014-2018)**

According to the context and statistics the 2014-2018 Plan presents, the housing needs in the Island are growing at much lower rate than in the past; however, substantial housing gaps persist based on the number of persons in the public housing waiting list, subfamilies (as defined under the PRCS), homeless, and the expected growth of 14,212 low and moderate-income households during this period.

Moreover, close to 234,000 low-income households, of which 64,422 were elderly homeowners had some sort of housing problem in 2011, including cost burden, overcrowded households and substandard housing. In addition, close to 12,000 elderly households will enter the ranks of those with housing burdens within the next five years. For this population, housing activities must continue to promote the development of new housing stock.

According to Puerto Rico Community Survey 2014, 41.7% or 136,607 owner occupied housing with annual incomes lower than \$20,000 were paying more than 30% of their income toward housing costs. Meanwhile, 75.7% or 101,285 of renters making less than \$20,000 were burdened by paying more than 30% of their income towards housing costs.

An area of concern is the need to build or rehabilitate inadequate and unsafe housing. Across Puerto Rico and particularly in non-entitlement areas, the majority of the



owner-occupied housing units were built before 1990. What this suggests is that given the age of the housing stock, its rehabilitation is an issue that will require attention, and will likely become a more urgent need in the near future.

Policies should also promote the redevelopment of urban areas, in particular to serve the needs of an aging population. In 2014 single-family structures (attached and detached) represented 79.2% of all housing units. In non-entitlement areas (Municipalities with population less than 50,000), multi-family housing was 10.1% of all housing.

A considerable number of project-based affordable housing units are also at risk of conversion during the next five years. A total of 103 non-elderly projects with 8,860 units have contracts expiring between 2013 and 2018 and steps should be taken to help preserve these units under the existing programs.

Although Puerto Rico's housing stock consists primarily of owner-occupied units, additional rental units in appropriate locations and inadequate conditions will be required to serve the needs of households undergoing increasing affordability issues, the elderly, persons with special needs and younger households, with a higher tendency to rent. Also, new construction should be considered in areas and market (or needs) niches where additional development is justifiable.

## 4. Housing Priorities

### 4.1. Criteria.

Pursuant to section 42(m)(1)(B)(i) of the Internal Revenue Code, section 5.4 details the selection criteria used to determine housing priorities which are appropriate to local conditions and to implement the policies of the Puerto Rico State Housing Plan.

### 4.2. Basis Boost Policy: 30% basis boost.

**4.2.1.** Pursuant to section 42(d)(5)(B)(v) of the Internal Revenue Code, any project located within an urban area, as the term is defined under the selection criteria, or any portion thereof, that is not contained by or designated as a Qualified Census Tract (QCT) shall be treated as located in a Difficult Development Area (DDA). The designation seeks to encourage the development of projects in the urban centers, including those in Municipalities that are underserved by being excluded from a designated DDA or QCT, while targeting the rehabilitation of urban areas as enunciated under the State Housing Plan.

- 4.2.2. Any project proposed under the Public Housing Set-Aside.
- 4.2.3. Outside a QCT, DDA or the previous designations, any project the Authority determines that needs a basis boost to be economically feasible might receive the necessary amount of boost, up to the maximum 30% allowed. A request for the basis boost must detail the reasons for its financial need and conclusively show that the boost is needed. At its sole discretion, the Authority will determine during the underwriting process if a State designated basis boost is required for financial feasibility.

#### 4.3. Set-Asides.

- 4.3.1. **Nonprofit Set-Aside:** 10% of the Authority's annual Tax Credit ceiling. Unallocated Tax Credits under the set-aside following the close of applications for the cycle become unused carryforward in next year's Authority Tax Credit ceiling. If Tax Credits are exhausted in a designated set-aside pool, all projects submitted for such set-aside pool will compete in the general pool or, if eligible, in another available set-aside pool. The Authority may designate additional set-aside Tax Credits.
- 4.3.2. **Public Housing Set-Aside: \$7.5 million from the 2018 per capita allocation.** Seven and a half (7.5) million dollars of annual Tax Credits from the Authority's 2018 per capita allocation will be set aside for preservation, rehabilitation or qualified new construction projects that are part of a comprehensive plan to redevelop, replace and/or rehabilitate existing or former Puerto Rico Public Housing Administration's (PRPHA) inventory. This set aside is strictly limited to applications that revitalize housing developments that were developed and are financed through PRPHA in coordination with the U.S. Department of Housing and Urban Development (HUD).

For purposes of reservation of Tax Credits pursuant to this set-aside category only, the Authority reserves the right to waive any basic threshold requirement described herein and/or compliance with the minimum points to be awarded under the Point Ranking System as long as any waiver does not violate applicable laws and regulations. A petition for a waiver pursuant to this clause will need a prior written request from the applicant and a corresponding formal response from the Authority prior to any application submittal.

## 5. Tax Credit Allocation Methodology and Criteria

### 5.1. Initial Submission - Basic Threshold Qualifications.

To be considered for a reservation of Tax Credits and have the opportunity to be ranked pursuant to the point scoring system of section 5.4 below, an applicant must first submit a complete application in CD-ROM format, include full payment of fees and demonstrate that the owner and the project meet these initial qualifications:

- 5.1.1. The project is or will be a qualified residential rental project with the basic income and rent restrictions of Section 42 of the Code (See Annex C, Low-Income Housing Tax Credits Program Maximum Rents), evidenced through:
  - 5.1.1.1. Owners' Certification (Annex G).
  - 5.1.1.2. Accountant's Opinion (Annex H).
  - 5.1.1.3. Attorney's Opinion (Annex I).
  - 5.1.1.4. Proposed detail of sources and uses of funds schedule and construction cash flow. Projected 30-year pro-forma income and expense cash flow (or any other period, as applicable) showing a feasible operation, prepared according to the Underwriting Standards described herein, and certified by the proposed management agent.
  - 5.1.1.5. Designer's Preliminary Certification (Annex J).
  - 5.1.1.6. Audited Financial Statements (updated **within six months** of the application; only applicable to **juridical persons**) of the developer, general partners, managing members, owners, and sponsors of each entity. If an entity of new creation, CPA certification of a new entity and most recent statements, if created within 6 months of the application.
  - 5.1.1.7. Compiled or Revised Financial Statements (updated **within six months** of the application; only applicable to **natural persons**) of the shareholders, directors, principals, officers, members and partners, as applicable, of the owner, developer, managing member, and general partner.
  - 5.1.1.8. As a minimum, the **combined net worth** of all entities and natural persons involved in the ownership structure of the project (excluding actual or future limited partners and/or Tax Credit equity providers) must be **equal to or greater than \$500,000.00**.

- 5.1.1.9. **No minimum net worth** amount will be required for **non-profit owner/developer** proponents as long as compliance with non-profit status requirements is met according to this QAP.
- 5.1.1.10. Written unqualified endorsement from the Mayor or Authorized Representative of the Municipality where the project will be located.
- 5.1.2. The owner, developer and their shareholders, directors, officers and partners, as applicable, must demonstrate via sworn statement (*affidavit*) that they have not been involved in any way (either personally or as shareholders, directors, officers, members or partners of a corporation, partnership or other form of business organization or joint venture) in any other project for which the Authority has provided any financing and /or grant (as lender, conduit, custodian of funds, or otherwise) and in which a default notice under the terms and conditions of the applicable financing documents has been issued and not cured.

All previous participants must also evidence via sworn statement that they have not been involved or are in any conflict of interest (fact or appearance) in any way (either personally or in any other juridical capacity) with the Authority, employees, officers or agents participating in any capacity in the procurement, selection, award, or the administration of a contract or agreement supported under the QAP or the NOFA. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Authority must neither solicit nor accept gratuities, favors, or anything of monetary value from proponents, awardees, contractors or parties to subcontracts. In order to ensure objective consultant performance and eliminate unfair competitive advantage, contractors that develop or participate in drafting specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing in any capacity for such procurements. Any conflict of interest will immediately disqualify the applicant of any participation in the Authority/HOME programs.

Notwithstanding the foregoing, ***if not requesting HOME funds***, the Authority reserves the right to waive any possible conflict of interest involving any participant, employee officer, agent, consultant or contractor from the agencies involved when, after full disclosure from the parties involved, such conflict is not deemed to infringe the Authority's best interest.

Also, the developer shall identify and explain any identity of interest with any other party of the project.

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

- 5.1.3. The owner, developer and their shareholders, directors, officers and partners, as applicable, with previous participation in the program, must demonstrate (through a certification letter from the Director of the Authority's Audit and Compliance Department) that they comply with Section 42/HOME requirements and that, as of the most recent audit/compliance review, there is no outstanding finding of noncompliance (including any fees due to the Authority) in another project that received Tax Credits/HOME funds and in which they have an interest or participation.
  
- 5.1.4. Evidence of readiness to proceed as demonstrated through submission of:
  - 5.1.4.1. Percentage of construction completion certified by project construction manager and lending institution inspector (both reports required), in case project is under construction.
  - 5.1.4.2. Unexpired evidence of site control (99 plus years for lease agreements under HOME program, or another lease term, as long as it qualifies as a valid agreement for the intended purpose).
  - 5.1.4.3. Recommendations of infrastructure issued by the OGPe and construction permit filed with competent entity.
  - 5.1.4.4. Pursuant to Section 106 - 36 CFR 800, State Historic Preservation Office's technical assistance or final determination letter. The technical assistance letter shall indicate that there are no historic properties or that no adverse effect on historic properties is associated with the undertaking or the agreed-to measures if such adverse effect is determined.
  - 5.1.4.5. Wetland Inventory Map from the US Fish and Wildlife Service demonstrating project's location outside of any wetland, or a Wetland Preliminary Jurisdictional determination from the Corps of Engineers; indicating that the project does not affect wetland.
  - 5.1.4.6. Project location must be identified in the NFIP map (FEMA Map) to demonstrate compliance with the Floodplain Management Act – 24 CFR 55, Executive Order 11988. The project must be located outside the 100-year floodplain, coastal high hazard areas and floodways.

If the project is located inside the 100-year floodplain, FEMA's approval letter of map amendment (LOMA) or letter of map revision (LOMR) will be submitted.

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

- 5.1.4.7. Project location must be identified in the USFWS map to demonstrate compliance with the Coastal Barrier Resources Act of CBRA –24 CFR 58.6(b). Federal assistance may not be used in the CBRA system.
- 5.1.4.8. Pursuant to Sections 307(c) and (d) of the Coastal Zone Management Act, Certification of Consistency filed with the State Coastal Management Program, if required.
- 5.1.4.9. Pursuant to the Endangered Species Act – 50 CFR 402, technical assistance or final determination letter issued by the U.S. Fish & Wildlife Service of the Department of the Interior; it must indicate that the project does not affect endangered species.
- 5.1.4.10. Any project located within 1,000 feet of a major noise source, road or highway, 3,000 feet of a railroad, or 5 miles of a civil airport, must provide a Noise Study as per the requirements set forth in the American National Standard Method for the Physical Measurement for Sound. Resulting noise level must comply with the acceptable level of 65 decibels established in 24 CFR 51.100 – Noise Abatement and Control.
- 5.1.4.11. Field studies:
  - 5.1.4.11.1. Soil survey, if project is for new construction or substantial rehabilitation requiring addition or expansion to structures.
  - 5.1.4.11.2. Archeological, if required by the SHPO pursuant to its review under Section 106, or if required by the Institute of Puerto Rican Culture (ICP), or copy of the recommendation issued by the ICP as part of the construction permit consultancy process evidencing that the study is not required.
  - 5.1.4.11.3. Hydraulic/Hydrologic, if the project meets the conditions established under The Department of Natural and Environmental Resources' Administrative Order No. 2013-12, or a certification issued by a civil engineer attesting that the study is not required.
- 5.1.4.12. Letter of intent from interim and/or permanent financing source specifying terms of available financing.
- 5.1.4.13. Projects with permanent financing other than the Authority's will need a letter of intent from the financial institution. The letter should detail:
  - 5.1.4.13.1. amount and term of the loan;

**2016 Low-Income Housing Tax Credit Allocation Plan**  
**Puerto Rico Housing Finance Authority**

- 5.1.4.13.2. fixed interest rate;
- 5.1.4.13.3. non-recourse nature of the loan;
- 5.1.4.13.4. amortization period; and
- 5.1.4.13.5. pre-payment penalties.

Applicant must submit a letter of firm commitment for financing within sixty (60) days of receiving a reservation of Tax Credits. All projects applying for Tax Credits and financing from the Authority must present the loan application to the Authority on or prior to the Tax Credit application's submittal.

- 5.1.4.14. Development team in place: architect/designer, general contractor, construction manager, resident inspector, management agent, consultants, their resumes and their contracts with applicable parties.
- 5.1.4.15. Plans and specifications certified by the licensed professional (project architect or engineer in charge of the design process).
- 5.1.4.16. Cost breakdown certified by the proposed general contractor or project designer.
- 5.1.4.17. Letter of intent from syndicator or direct investor evidencing available private equity and indicating the credit price.
- 5.1.4.18. Pro-forma financial statements certified by the project's proposed management agent.
- 5.1.4.19. Organizational documents for all entities specified in items 3, 4, 5 and 7 of pages 1 through 3 of the Tax Credit Application worksheet. (Please refer to *Basic Threshold Review* checklist made part of the application package for applicable documents).
- 5.1.4.20. IRS Form SS-4 (application for Employer Identification Number) or other evidence of the taxpayer identification number for all entities specified in the previous item.
- 5.1.4.21. Owner must demonstrate its commitment to extend the initial 15-year period of compliance with the Tax Credit program's income and rent restriction requirements for a minimum of 15 additional years. (See Annex K).

2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority

- 5.1.4.22. Phase I environmental site assessment report and/or any other applicable environmental report. Must comply with ASTM E 1527-13 or any updated version as ASTM promulgates which meets the requirements of EPA's AAI regulations.
- 5.1.4.23. Comprehensive market study report (updated **within six months** of the application) performed by an approved provider unaffiliated with the developer, of the low-income housing needs in the area to be served. The Authority will publish a list of approved providers after review of qualifications. The market study should at least include:
- 5.1.4.23.1. A statement of the competence of the market study provider, detailing education and experience of primary author and including statement of non-interest.
  - 5.1.4.23.2. A description of the proposed site and neighborhood, including physical attributes of site, surrounding land uses, and proximity to community amenities or neighborhood features including shopping, healthcare, schools, and transportation.
  - 5.1.4.23.3. A map and photos of the subject site and surroundings showing location of community services.
  - 5.1.4.23.4. An overview of local economic conditions, including employment by sector, list of major employers, and labor force employment and unemployment trends over past 5-10 years.
  - 5.1.4.23.5. A description of the proposed development, detailing proposed unit mix (number of bedrooms, bathrooms, square footage, proposed rents, AMI level, utility allowances, and any utilities included in rent), proposed unit features and community amenities, and target population including age restrictions and/or special needs populations.
  - 5.1.4.23.6. Demographic analysis of the number of households in the market area that are part of the target market (*i.e.*, family, senior, etc.), income-eligible, and can afford to pay the rent, including a projected household base at placed in service date.
  - 5.1.4.23.7. Geographic definition and analysis of the market area, including description of methodology used to define market area and map of market area including proposed site.



- 5.1.4.23.8. Analysis of household sizes and types in the market area, including households by tenure, income, and persons per household.
- 5.1.4.23.9. A description of comparable developments in the market area, including any rental concessions these developments presently offer.
- 5.1.4.23.10. A description of rent levels and vacancy rates of comparable properties in the market area, segmented by property type (market rate, Tax Credit, deep subsidy) and with rents adjusted to account for utility differences and concessions or other incentives. Such description should include all existing Tax Credit developments in the primary market area and any planned additions to rental stock including recently approved Tax Credit developments.
- 5.1.4.23.11. Expected market absorption of the proposed rental housing, including capture/penetration rate analysis of target populations.
- 5.1.4.23.12. A description of the effect on the market area, including the impact on Tax Credit and other existing affordable rental housing.

**THE AUTHORITY WILL CONSIDER THE MARKET STUDY, THE MARKET, MARKETABILITY FACTORS, AND ANY ADDITIONAL INFORMATION AVAILABLE TO DETERMINE IF AN ACCEPTABLE MARKET EXISTS FOR THE PROPOSED DEVELOPMENT. THE AUTHORITY WILL NOT BE BOUND BY THE CONCLUSIONS OR RECOMMENDATIONS OF THE MARKET REPORT AND RESERVES THE RIGHT TO DISQUALIFY ANY APPLICANT IN THE COMPETITION IF IT DETERMINES THAT AN ACCEPTABLE MARKET DOES NOT EXIST.**

- 5.1.4.24. For rehabilitation and acquisition/rehabilitation projects, a comprehensive capital needs assessment report that a competent licensed architect or engineer prepares, including an opinion of proposed construction budget. The assessment should examine and analyze, among other things:
  - 5.1.4.24.1. site;
  - 5.1.4.24.2. structural systems (roof, bearing walls and columns, foundations);
  - 5.1.4.24.3. plumbing systems;
  - 5.1.4.24.4. electrical systems;
  - 5.1.4.24.5. fire protection systems;

- 5.1.4.24.6. building envelope and insulation;
- 5.1.4.24.7. interiors (including units and common areas); and
- 5.1.4.24.8. mechanical systems.

**THE AUTHORITY WILL NOT AWARD ANY ACQUISITION AND REHABILITATION PROJECT WITH 9% CREDITS UNLESS THE AUTHORITY, IN ITS SOLE DISCRETION AND TO THE COST OF THE APPLICANT, PERFORMS (EITHER BY ITSELF OR THROUGH ENGAGEMENT OF A REPUTABLE ACCOUNTING FIRM IN THE INDUSTRY) A THOROUGH FINANCIAL ANALYSIS EVIDENCING NON-FEASIBILITY OF THE PROJECT UNDER THE TAX EXEMPT BOND/4% TAX CREDIT PROGRAM.**

- 5.1.4.25. Appraisal report of site and property prepared by an approved and licensed appraiser within six months of the application.
- 5.1.5. Projects sponsored or developed by nonprofit organizations and receiving a Tax Credit reservation and allocation from the nonprofit set-aside must document that the organization is a valid qualified nonprofit organization under Section 42(h)(5)(C) of the Code and it:
  - 5.1.5.1. is exempted from taxation under Section 501(a) of the Code and described in paragraph (3) or (4) of Section 501(c) of the Code;
  - 5.1.5.2. materially participates<sup>2</sup> in the acquisition, development and ongoing operation of the project throughout the entire compliance period; as well as an agreement to provide the Authority with annual certifications verifying continued involvement;
  - 5.1.5.3. is not affiliated with, controlled by, or party to interlocking directorates with any Related Party of a for-profit organization, and the basis for said determination, as determined by a third party legal opinion;
  - 5.1.5.4. is eligible for the nonprofit set-aside pursuant to IRC Section 42(h)(5) as determined by a third party legal opinion; and
  - 5.1.5.5. fosters low-income housing as one of its exempt purposes.

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<sup>2</sup> *“Material Participation”* is defined in Section 469(h) of the Code and related Treasury Regulations as being involved on a regular continuous and substantial basis in the development and operation of the project throughout the full Tax Credit compliance period. The non-profit entity must submit a narrative statement, certified by a resolution of its boards of directors describing the non-profit plan for material participation during the Compliance Period.

- 5.1.6. A commitment letter indicating available funding issued by the Rural Development Housing Service of the US Department of Agriculture for projects that are financed or sponsored by the entity.
- 5.1.7. Compliance with the Fair Housing Act (*Civil Rights Act of 1968 - 42 U.S.C. 3601 et seq.*) accessibility requirements certified through the Designer's opinion letters and completion of the Fair Housing Act Accessibility Requirements Checklist. (Annex F: requirements checklist; Annexes J and N: models of certification letters).
- 5.1.8. Certification from applicant as to Federal, State, or Local subsidies received or expected to be received for the development and operation of the project. If executed, copies of subsidy/grant contracts or commitment letters must be submitted with the application.
- 5.1.9. Applications requesting **more than \$2,500,000.00** in annual credits **will NOT** be considered and materials will be returned to the proponent without any further analysis.
- 5.1.10. Entities willing to be Community Housing Development Organizations (CHDO) must file the corresponding application.
- 5.1.11. Acquisition/Rehabilitation projects must submit a certification attesting to the fact that 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 or any applicable exception to this rule.

## 5.2. Development Budget and Pro Forma Assumptions Review

### 5.2.1. Description

The Authority will evaluate the proposed detail of sources and uses of funds schedule and construction cash-flow to ensure that all costs set forth for the project are reasonable and conform to the Authority's underwriting parameters. The Authority will use its parameters and resulting numbers to review project feasibility, determine need, and allocate tax credits.

Projects claiming and/or receiving (or not) tax exemptions (e.g., property tax waivers, rental income exemptions, etc.) must present written evidence. Projects requiring funds other than tax credit allocation must conform to the corresponding subsidy layering review to determine the appropriate level of funding under each program.

## 5.2.2. Allowable costs and expenses

### 5.2.2.1. Intermediary costs

Shall not exceed 5% of total development costs. The intermediary costs will include, but are not limited to:

5.2.2.1.1. organizational costs;

5.2.2.1.2. syndication fees; and

5.2.2.1.3. professional fees (architectural, engineering, accounting, legal, design, environmental consulting, construction management).

### 5.2.2.2. Developer Fees

Developer Fees will be restricted to fifteen (15%) of the development cost estimate. For purposes of this calculation, development cost include amounts of items B to I, K, and L of the uses detailed in the Sources and Uses of Funds statement (page 15 of the Tax Credit Application worksheet).

The developer's fee includes the developer's overhead, profit and consultants other than the types of professional fees discussed above, and all other fees paid in connection with the project for services that would ordinarily be performed by a developer.

The Applicant must submit a copy of each consultant contract that itemizes the services to be performed by each consultant and the amount of the consultant fee for each service or group of services.

In addition, a maximum developer's fee of 4% is allowed on the acquisition cost of buildings (excluding land value or cost) purchased for rehabilitation.

Notwithstanding, the Authority reserves the right, in its sole discretion, to adjust the timing of payment of the developer's fee at any time to achieve or maintain a project's feasibility and long-term viability.

### 5.2.2.3. General Contractor Maximum Charges

5.2.2.3.1. Builder's profit: 6% of construction contract amount.

5.2.2.3.2. Builder's overhead: 2% of construction contract amount.

5.2.2.3.3. General Conditions: 6% of construction contract amount.

The total allowed percentages for General Conditions, Overhead, and Builder's Profit are based on hard construction costs and the maximum combined costs shall not exceed fourteen percent (14%) of the hard construction costs stated on the AIA construction contract.

5.2.2.4. Per Unit Minimums

Rehabilitation expenditures during any 24-month period will be the greater of:

5.2.2.4.1. 20% of the adjusted basis of the building being rehabilitated, or

5.2.2.4.2. \$6,000 per low-income unit in the building (qualified basis attributable to such expenditures divided by the number of low-income units), plus the inflation adjustment factor as per applicable laws and regulations.

5.2.2.5. Per Unit Cost Review

The Authority may appoint an independent consultant to validate the construction or rehabilitation costs in projects that passed the basic threshold requirements. The consultant may evaluate:

5.2.2.5.1. site, including demolition, earthwork, drainage, pavement, curbs, sidewalks, parking, landscaping, water, sewer, storm drainage, gas and electric utilities and lines;

5.2.2.5.2. structural, plumbing, electrical, fire protection, and vertical transportation systems;

5.2.2.5.3. building envelope, thermal insulation and air infiltration control systems;

5.2.2.5.4. interiors, including units, common area finishes, and disabled persons accessibility improvements;

5.2.2.5.5. energy efficiency and green technologies;

5.2.2.5.6. construction methods, value engineering assumptions, cost index factors and sources and documentation of itemized costs submitted;

5.2.2.5.7. construction insurance and general and special conditions; and

5.2.2.5.8. any other factors or information the Authority deems necessary.

5.2.2.6. Acquisition Costs

The acquisition price will be limited to the lesser of the sale price or the appraised value of the land and the property, and in the case of a municipal and/or governmental seller, the costs of rehabilitation already incurred on properties not yet placed in service.

5.2.2.7. Operating Expenses

The Authority will consider the reasonableness of the development and operational costs of the project as an additional factor in determining the proper amount of Tax Credits.

**5.2.3. Underwriting Parameters**

5.2.3.1. Vacancy Rate:

5.2.3.1.1. 5% in projects with project-based rental assistance;

5.2.3.1.2. 7 % all other projects

5.2.3.2. Income and Reserve for Replacement:

5.2.3.2.1. 3% annual growth in rents, other income, and reserve for replacement.

5.2.3.3. Operating Expenses:

5.2.3.3.1. 3.5% annual growth;

5.2.3.3.2. 3.4% for green-certified buildings

5.2.3.4. Debt Service Coverage Ratio

Minimum 1.15 coverage for the term of the permanent debt financing. Equals the proportion of the development's net operating income (operating income less operating expenses and reserve payments) to foreclosable, currently amortizing debt service obligations.

#### 5.2.3.5. Required Reserves

- 5.2.3.5.1. Rent-up reserve shall be reasonable based upon projected rent-up time according to market and target population, but in no event shall be less than \$250 per unit.
- 5.2.3.5.2. Operating Reserve: four (4) months of: (a) projected operating expenses, (b) debt service, and (c) replacement reserve payment.

It must be maintained throughout the term of the Tax Credit extended use period.

Deferring the developer's fees of the project can allow the project owner to fund the operating reserve. In that case, the developer's deferred fee can only be repaid from cash flow and after all required replacement reserve deposits are made. Such fee will be projected to be repaid within 10 years and must meet the IRS standards. A statement with the terms of the deferred fee must be included.

Neither interest income earned on any type of reserve funds nor the release of any type of reserve funds will be considered as a source of revenue for a project.

#### 5.2.3.5.3. Replacement Reserve

- 5.2.3.5.3.1. New construction for elderly or non-elderly with 100% project-based assistance: \$250 per unit per year.
- 5.2.3.5.3.2. New construction non-elderly and rehabilitation: \$300 per unit per year.

Replacement reserve must be capitalized from the project's operations at 3% annual increases.

#### 5.2.3.6. Project Based Rental Assistance

The Authority will underwrite the rents according to Tax Credit limits except for projects that intend to use project-based rental assistance (e.g., Section 8, Act 173, or similar legislation), which will be underwritten as per applicable regulations, provided written evidence is submitted (e.g., award letter indicating gross rents approved for the project or executed rental subsidy agreement). In case of section 8, if PHA-owned units are assisted, evidence of completion of the selection review process will have to be provided prior to underwriting.

These limits are based on annual HUD data. If Section 8 HAP, Act 173 contracts, or other similar legislation allows rents above those limits, a project may receive the additional revenue based on such extra revenue.

#### 5.2.3.7. Tax Credit Percentage

If not using 4% tax exempt bonds, the Authority will use the fixed tax credit rate under Section 42(b)(2) to reserve Tax Credits.

If using 4% tax exempt bonds, the Authority will use the applicable monthly percentage rate the IRS publishes to reserve Tax Credits. At the time of the Tax Credit allocation, the applicant must choose the Tax Credit percentage for either the:

5.2.3.7.1. Carryover Allocation month; or

5.2.3.7.2. month a project is or will be placed in service.

#### 5.2.3.8. Equity Pricing

The Authority will use the price that owners will submit through a letter of intent/commitment from the investor confirming the financial assumptions of the purchase.

### 5.2.4. Record and Notification

The Authority will record and issue an itemized notice, when it provides notification of a Tax Credit reservation, or lack thereof, of amendments to the pro forma financial statements, changes to development costs, operating expenses, reserves, and underwriting assumptions.

## 5.3. Underwriting and Financial Feasibility Analysis

### 5.3.1. Description

The Authority shall evaluate the amount of Tax Credits, subject to its placement in the Point Ranking System, after it has determined that a project satisfies all basic qualification requirements, that proposed costs and expenses are reasonable and within the prescribed standards, and that underwriting parameters conform to Authority guidelines.



Section 42 of the Code requires the Authority to allocate the Tax Credits necessary to make a project economically viable. Thus, no project may receive, regardless of its absolute or relative score in the Point Ranking System, more credits than the Authority's underwriting process identifies as required for financial viability. Specifically, the amount of Tax Credits will be the lesser of the:

- 5.3.1.1. maximum allowable under the Code according to the project's eligible basis and affordability level (*eligible basis analysis*);
- 5.3.1.2. project's current necessity as the Authority's underwriting determines (*sources and uses or equity gap analysis*); and
- 5.3.1.3. amount of credits the applicant requested.

#### 5.3.2. Pro-forma statements

Pro-forma statements will be prepared by the Authority based on the analysis described above, which will include recommended sources and uses of funds, as well as projected operating income for the term of affordability. These will include the amount of Tax Credits that a project would be eligible to receive, subject to the Point Ranking System, as well as the amount of permanent financing based on the established parameters, governmental subsidies, capital contributions, and funds from Authority's or other private programs.

The Authority reserves the right, at its sole discretion, to vary the above described methodology and all tax credit allocation methodology and criteria in order to comply with Section 42 requirements, any state law requirements or to further the public policy set forth in this QAP.

### 5.4. Project Evaluation and Selection (Point Ranking System)

#### 5.4.1. Description

The Authority will consider qualified applications for Tax Credits after a project satisfies all basic factors using the Point Ranking System established hereinafter.

The project can accumulate a total of 100 points on the Point Ranking System. The project must accumulate a minimum of **30 points** to be entitled to a reservation or an allocation of Tax Credits. The Authority anticipates reserving Tax Credits for projects scoring highest under the Project Selection Criteria up to the amount permitted by law and the QAP.

**ONCE AN APPLICANT SELECTS SCORING CRITERIA, THESE WILL BE FINAL, UNLESS A DIFFERENT CONCLUSION ARISES BECAUSE A STATE AND/OR A FEDERAL AGENCY DETERMINATION ALLOWS OTHERWISE.**

The Authority reserves the right not to reserve or allocate Tax Credits to any applicant, regardless of that applicant's point ranking, if the Authority determines, in its sole and absolute discretion, that a reservation or allocation for such applicant or project does not further the purpose and goals of the State Housing Plan or this QAP; the applicant's proposed project is not financially viable; or there is not a substantial likelihood that the project will be able to meet the requirements for carryover or final allocation in a timely manner. The information that might be weighed to make such determination includes, but is not limited to comments of officials of local governmental jurisdictions, the market appropriateness of the project and market information from sources other than the submitted market study, and the prior experience of sponsor or its representatives with non-elderly projects. Pursuant to section 42(m)(1)(A)(iv) of the Internal Revenue Code, the Authority will make available to the general public a written explanation 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.

Every sponsor, developer, owner, or consultant attests to the correctness of the information provided as a condition to rank the project's application according to the Point Ranking Criteria. Failure to uphold the information submitted or the representation made to support the application's evaluation and ranking throughout the allocation process will result in a finding of noncompliance and limited participation in further rounds for every person, developer, owner or consultant which participates in the project's application. The Authority might pursue any other available or enforceable remedies under federal or state laws, regulations or any applicable professional code of ethics.

#### 5.4.1.1. Section 42 mandatory legislative criteria

Federal legislation requires the Authority to give preference in allocating Tax Credits to those projects serving the lowest income tenants and to those projects committed to serve qualified tenants for the longest period.

5.4.1.2. Other Criteria

Applications will be evaluated according to:

5.4.1.2.1. Preferred Project Location

- 5.4.1.2.1.1. **Urban area** defined as: Central Urban Area as defined by Planning Board's *Reglamento de la Infraestructura en el Espacio Público* (Annex Q); or Urban Center designated by the Department of Transportation and Public Works or adopted under an Urban Center Area Plan (Annex Q); or a state-designated Historical Zone or federally-designated Historical District.
- 5.4.1.2.1.2. The portion of a census tract outside an urban area, as defined above, that has a designated below poverty line rate, as specified in section 5.4.2.
- 5.4.1.2.1.3. The zone of influence around an Urban Train Station, as defined under section 3(e) of Law 74-1965, as amended.
- 5.4.1.2.1.4. Proximity to desirable amenities and avoidance of undesirable amenities.

5.4.1.2.2. Preferred Project Characteristics

- 5.4.1.2.2.1. Redevelopment of an infill site or and expropriated site pursuant to a nuisance abatement process, or that is incorporated into a scattered-site project.
- 5.4.1.2.2.2. Substantial rehabilitation of a state designated historic property, federally designated historic place or a contributing resource to a federally designated Historic District.
- 5.4.1.2.2.3. Adaptive reuse of an existing non-residential property.
- 5.4.1.2.2.4. Improvements aimed at facilitating the mobility of its residents and public transportation.
- 5.4.1.2.2.5. Development that strengthens and improves the neighborhood's general urban character.
- 5.4.1.2.2.6. Unit-mix preferring 2-bedroom units in non-elderly projects.

2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority

- 5.4.1.2.2.7. Exceeding the amount of fully accessible units for mobility disabilities.
  - 5.4.1.2.2.8. Provision of building amenities benefiting all units.
  - 5.4.1.2.2.9. Capacity to effectively curb costs while complying with applicable standards, threshold requirements and minimum scoring.
  - 5.4.1.2.2.10. Integration of energy efficiency and green design best practices and protocols.
  - 5.4.1.2.2.11. Construction readiness.
- 5.4.1.2.3. Preferred Housing Needs Characteristics
- 5.4.1.2.3.1. Developments where **at least half** of the units in the project are targeted for very low-income households.
  - 5.4.1.2.3.2. Developments that set-aside the applicable percentage of units for the special population categories identified in both the State Housing Plan and the Consolidated Plan.
  - 5.4.1.2.3.3. Preservation projects that seek to maintain the stock of affordable non-elderly rental housing.
  - 5.4.1.2.3.4. Extended term of affordability beyond the extended use period of thirty (30) years.
  - 5.4.1.2.3.5. Developments proposed to be converted to tenant homeownership.
  - 5.4.1.2.3.6. Inclusion in any waiting list of a public housing agency (PHA).
- 5.4.1.2.4. Developer Characteristics
- 5.4.1.2.4.1. Previous successful participation developing and operating Tax Credit projects.
  - 5.4.1.2.4.2. Adequate financial strength.
- 5.4.1.2.5. Preferred Financing Characteristics

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

5.4.1.2.5.1. Leverage of capital funding from public sources other than those being managed by the Authority, the Department of Housing or the Municipalities is encouraged.

5.4.1.2.5.2. Leverage of local government capital funding through cash contributions, land donated or discounted, site or off-site improvements, grants, or municipal construction tax abatement which is granted to the project and is not available under a local or state statute of general application.

5.4.1.2.5.3. Operational cost efficiency per project size.

5.4.1.2.5.4. Projects with financing from the Authority.

**5.4.1.2.6. Supportive Services to Special Tenant Populations**

5.4.1.2.6.1. Projects that sustain a level of funding for the provision of supportive services.

**5.4.2. Point Scoring**

Criterion		Score
I.	<b>Project Location</b>	Up to 12 pts
I.1	<b>Location.</b> A project might be awarded <b>up to 5 points</b> if located within one of the following areas:	Up to 5 pts
	Urban area defined as: Central Urban Area in the Planning Board's <i>Reglamento de la Infraestructura en el Espacio Público</i> ; or Urban Center designated by the Department of Transportation and Public Works or adopted under an Urban Center Area Plan; or a state-designated Historical Zone or federally-designated Historical District. See Annex Q of the Application Package for Reference Maps.	5
	Documentation required: Certification of location by a licensed land surveyor, physical address and coordinates. Any project property straddling the limit of the designated urban area will be considered as located within.	
	The portion of a census tract outside an urban area, that has a rate of:	
	20% or less below poverty line.	3
	more than 20% and less than 30% below poverty line.	2
	more than 30% and less than 40% below poverty line.	1
	Documentation required: Certification of location by a licensed land surveyor. Any project property straddling the limit of the census tract will be considered as located within.	
	Documentation required: Census tract number; census tract's "% Below Poverty Line" as per the Federal Financial Institutions Examination Council's (FFIEC) 2015 Census Report. (Application, page 1).	
	The zone of influence around an Urban Train Station, as defined under section 3(e) of Law 74-1965, as amended.	1

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
	Documentation required: Certification of location by a licensed land surveyor, physical address and coordinates. Any project property straddling the limit of the zone of influence will be considered as located within.	
<b>I.2</b>	<b>Desirable Activities</b>	<b>Up to 7 pts</b>
I.2.1	<b>General.</b> Projects located within a 500 meters of the following amenities will be awarded a point each, <b>up to 5 points</b> :	Up to 5 Pts
	Town square of an urban center.	1
	Public park (must incorporate a passive non-sports area).	1
	Traditional town market ( <i>plaza de mercado</i> ).	1
	Public or licensed elementary, middle or high school.	1
	Shopping center (100,000 square feet or more of net commercial space; no other listed use is eligible if located within a shopping mall).	1
	Grocery store or supermarket with meat, produce and dairy.	1
	Hospital, diagnostic and treatment center (CDT) or federally qualified health center (see <a href="http://www.hrsa.gov">www.hrsa.gov</a> ).	1
	Pharmacy.	1
	Federal post office.	1
	Public transit terminal (bus, <i>públicos</i> ).	1
	Documentation required: Map certified by a licensed land surveyor attesting to location of the facilities and the distance along a walkable public pathway or roadway between the project's main pedestrian entrance and the closest point of a town square or park facility or a public entrance to any target facility (in case of a shopping mall, to the commercial concourse or a big box-type facility entrance). If close to more than one installation belonging to the same type, only one point will be awarded. In case of a scattered-site project, distance will have to be certified from the nearest point of the closest building in the project.	
	Amenities must also be referenced by the market study.	
I.2.2	<b>Targeted.</b> Projects targeted to the following special needs populations located within 500 meters of the following amenities will be awarded a point for each one, <b>up to 2 points</b> .	
	Single headed household:	
	Grocery store with WIC contract.	1
	Licensed or chartered child care facility.	1
	Specific documentation required: name and physical address of facilities.	
	Specific documentation required: Evidence of inclusion in the WIC Vendor Registry published at <a href="http://wicpuertorico.com">wicpuertorico.com</a> .	
	Specific documentation required: Child care facility charter issued by ACUDEN.	
	Elderly household:	
	Physician or dental office.	1
	Civic center or voluntary work facility.	1
	Specific documentation required: Name and physical address of facilities.	
	Homeless (as defined under HEARTH Act):	
	WIOA training center.	1
	ASSMCA licensed public or private institution for the ambulatory treatment of mental disabilities, drug addiction or substance dependency.	1
	Specific documentation required: Name and physical address of facilities.	

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
	Specific documentation required: Authorization for WIOA training center issued by Local Workforce Development Area.	
	Specific documentation required: Copy of license issued by ASSMCA.	
	Documentation required: Map certified by a licensed land surveyor attesting to location of facilities and distance along a walkable public pathway or a roadway between the project's main pedestrian entrance and the public entrance to any target facility. If close to more than one installation belonging to the same type, only one point will be awarded. In case of a scattered-site project, distance will have to be certified from the nearest point of the closest building in the project.	
	Amenities must also be referenced by the market study.	
1.3	<b>Undesirable Activities.</b> Even if compliant with required environmental review, projects <b>will be discounted</b> one point for each one of the listed undesirable activities, up to a maximum of 5 points, if located:	Up to Minus 5
	Within one-eight mile of a:	-1
	Junkyard.	-1
	Landfill or dumpsite.	-1
	Industrial site.	-1
	Airport.	-1
	Wastewater treatment plant.	-1
	Adjoining a property which is or contains a:	
	Gas station.	-1
	Auto repair, paint, or tire repair shop.	-1
	Woodworking shop.	-1
	Unabated nuisance, as declared by a Municipality.	-1
	Documentation required: Map prepared by a licensed land surveyor certifying due diligence by identifying any of the listed nuisances within the established distance measured along the shortest straight line between the project lot and the nuisance property. In case of a scattered-site project, the distance will have to be certified from the closest point of the project's lot closest to the identified nuisance.	
<b>II</b>	<b>Project Characteristics</b>	<b>Up to 47 pts</b>
II.1	<b>Infill or nuisance.</b> Projects will be awarded one point if proposed to develop an infill site or expropriated as part of a nuisance abatement process; and one additional point, <b>up to 5 points</b> , for each non-contiguous infill site or expropriated as part of a nuisance abatement process that is incorporated into a scattered-site project, located within an area with a radius no larger than one-quarter mile. An infill site shall be defined as a site that is bound on all except one of its sides, or two of its sides in case of a corner-type property, by adjoining built-up properties, and that has immediate access to existing public infrastructure of roads, water, sewer, and power.	Up to 5 pts
	Documentation required: Aerial photograph for each infill site showing properties.	
	Documentation required: Cadastral numbers of properties (Application, page 1).	
	Documentation required: Nuisance abatement completed by Municipality supported by property deed and certification provided by Municipality.	
II.2	<b>Historic property.</b> A substantial rehabilitation project site is located in or incorporates a state designated historic property, federally designated historic place or a contributing resource to a federally designated Historic District.	3
	Documentation required: Act citation or Planning Board's Resolution number and date in case of state designated properties; listing in the National Register of Historic Places in case of federally designated properties; or State Historic Preservation Office's (SHPO) certification of contributing resource.	

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
II.3	<b>Adaptive reuse.</b> The residential use is an adaptive reuse of an existing non-residential property. Documentation required: Appraisal certifying present land use of the property.	1
II.4	<b>Site Characteristics.</b>	<b>Up to 9 Pts</b>
II.4.1	<b>Mobility.</b> Projects (or the totality of the building sites, in the case of a scattered-site project), that incorporate improvements aimed at facilitating the mobility of its residents and promoting public transportation will be awarded <b>up to 4 points</b> , as follows:	Up to 4 pts
	The project provides an accessible and dedicated pedestrian network within the project site to connect the building(s) main pedestrian entrance(s) with egress points on all property sides adjoining a public street. Documentation required: Site plan certified by the project's designer identifying the proposed improvements.	1
	Provided it is not required by a competent authority as an off-site improvement, the project includes the construction or rehabilitation of all non-conforming sidewalks in the perimeter of the project site adjoining a public roadway, in compliance with applicable accessibility standards and local codes. Documentation required: A separate plan drawing certified by the project's designer identifying any segments of the existing pedestrian pathways requiring accessibility improvements or in need of repair, and proposed improvements or new construction required to comply with applicable accessibility standards and local codes. Documentation required: Approval from Municipality and competent transit authority, if applicable. Documentation required: Letter from competent authority attesting the improvement is not a required off-site.	1
	Provided it is not required by a competent authority as an off-site improvement, the project includes the construction or rehabilitation of transit pull-offs or public transit stops and required signage in any point of the roadway perimeter of the project site; or the provision or improvement of the sidewalks, crosswalks, refuge islands, and required signage to connect an off-site existing public transit stop with the project site, in compliance with applicable accessibility standards and local codes. Documentation required: A separate plan drawing certified by the project's designer identifying any segments of the existing pedestrian pathways requiring accessibility improvements or in need of repair, and proposed improvements or new construction required to comply with applicable accessibility standards and local codes. Documentation required: Approval from Municipality and competent transit authority, if applicable. Documentation required: Letter from competent authority attesting the improvement is not a required off-site.	1
	The project provides an enclosed (covered, secured room within the building limits) bicycle storage facility for residents on the ground floor with at least one bicycle rack space for every two units; and an unenclosed bicycle storage facility accessible to visitors with at least one bicycle rack space for every 10 vehicle parking spaces. Documentation required: Ground floor plan certified by the project's designer showing location and capacity of facilities.	1
II.4.2	<b>Urban Considerations.</b> A proposed development that strengthens and improves the neighborhood's general urban character may be awarded one point for each one of the following criteria, <b>up to 5 points</b> , as follows:	5
	The project achieves the maximum allowable gross floor area, housing density and/or height under applicable code provisions.	1



**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
	Documentation required: Table with applicable code provisions, maximum parameters and project parameters certified by the project's designer.	
	The parking spaces and service areas are screened from any public sidewalk or roadway by green hedges, fences or walls with a void-to-solid area ratio of 1 or less.	1
	Documentation required: Site plan and elevation details certified by the project's designer identifying visual barriers and certifying compliance.	
	The building(s) main entrance(s) open(s) to the sidewalk of an adjoining public roadway.	1
	Documentation required: Site plan certified by the project's designer showing the location of the building's main entrance(s).	1
	The commercial spaces offered to the project tenants serve the general public and can be directly accessed from a public space.	1
	Documentation required: Entry-level floor plan certified by the project's designer identifying commercial spaces and direct access from a public space.	
	The project dedicates an open garden or plaza to public use connected to or adjoining a sidewalk or roadway.	1
	Documentation required: Site plan certified by the project's designer identifying public space, area and relation to a sidewalk or roadway.	
	Documentation required: Documentation supporting property dedication to public use.	
<b>II.5</b>	<b>Building Characteristics.</b>	
<b>II.5.1</b>	<b>Unit Mix.</b> Projects might earn <b>up to 2 points</b> for a unit mix preferring 2-bedroom units as follows:	2
	75% or more 2-bedroom units	2
	50% or more 2-bedroom units	1
	Documentation required: Floor plans certified by the project's designer.	
	Documentation required: Project proforma.	
<b>II.5.2</b>	<b>Accessibility.</b> Exceeding the allocation required under 24 CFR 8.22(b), projects could earn <b>up to 3 points</b> for the amount of fully accessible units for mobility disabilities (compliant with requirements applicable to Type A dwellings as defined under section 1003 of ICC ANSI A117.1 (2009)), as follows:	3
	at least 20% of total units are fully accessible units for mobility disabilities.	3
	at least 15% of total units are fully accessible units for mobility disabilities.	2
	at least 10% of total units are fully accessible units for mobility disabilities.	1
	Documentation required: Floor plans and elevations certified by the project's designer showing accessibility features required by applicable criterion.	
	Documentation required: Designer's Preliminary Opinion Letter (Annex J of the Application Package, model of certification), specifying compliance with criteria.	
	Documentation required: If requesting HOME, affirmative Fair Housing Marketing Plan (similar to Annex S of the Application Package).	
<b>II.5.3</b>	<b>Building Amenities.</b> Projects will be awarded one point, <b>up to 5 points</b> , for each one of the following building or unit features benefiting all units and, if applicable, not required by code or a permit authority:	Up to 5 pts
	Centrally located courtyard or patio with an area of no less than 30 sq. ft. per unit directly accessible from the main entrance(s) of the building(s).	1
	Community or meeting center with and area of no less than 15 sq. ft. per unit, with kitchen and public bathrooms.	1
	Open balcony in each unit with an area of no less than 24 sq. ft.	1

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

	<b>Criterion</b>	<b>Score</b>
	Equipped exercise room(s) with an area or aggregate area of no less than 300 sq. ft.	1
	Common laundry (ies) equipped with at least a washer-dryer pair per 15 units or washer/dryer combo provided in each unit.	1
	Equipped playground outdoor area with visual control from the main entrance.	1
	Night shift security guard.	1
	Trash chutes (for mid or high rise facilities).	1
	Storm windows or shutters in all units.	1
	Ceiling fans for all bedrooms and living room areas.	1
	Documentation required: Floor plans and elevations certified by the project's designer showing designated spaces, equipment, and/or floor area.	
	Documentation required: Designer's Preliminary Opinion Letter (Annex J of the Application Package, model of certification), specifying compliance with applicable design criteria.	
II.6	<b>Innovative Design.</b> The Authority favors projects that advance the State Housing Plan's policy that seeks to identify, adopt and implement design, construction and rehabilitation standards and technologies that are appropriate for the island's climate, aimed at reducing construction costs and promoting energy efficiency.	Up to 14 pts
II.6.1	<b>Cost Containment.</b> The Authority's total development cost for new construction averages close to <b>\$233,607</b> for non-elderly units and <b>\$176,221</b> for elderly; substantial rehabilitation averages close to <b>\$108,579</b> and <b>\$129,123</b> , respectively. Projects that demonstrate the capacity to effectively curb costs while complying with applicable standards, threshold requirements and minimum scoring, might earn <b>up to 5 points</b> , as follows:	
	Total development cost per unit more than 20% below the applicable benchmark.	5
	Total development cost per unit more than 15% below the applicable benchmark.	3
	Total development cost per unit more than 10% below the applicable benchmark.	1
	Documentation required: Construction cost breakdown (itemized schedule of values) that substantially conforms to form HUD 2328 (form not required), certified by the proposed general contractor or project designer.	
	Documentation required: Construction cost estimate prepared by a third-party (licensed Architect or Engineer, Professional Cost Estimator or a Certified Cost Professional).	
	Documentation required: Project Development Costs (Application, pages 11 and 12).	
	Required fees to cover the Authority's third-party assessment of proposed cost estimates.	
	Documentation required: Sources and Uses (Application, page 15).	
II.6.2	<b>Energy Efficiency.</b> Projects might earn <b>up to 9 points</b> by advancing energy efficiency and green design best-practices and protocols, as follows:	Up to 9 pts
	A point each will be awarded for any project that specifies and factors-in the initial costs of any the following:	1
	All appliances initially placed in common areas and apartments, and/or building envelope products (specifically: refrigerators, bath fans, clothes washers-dryers, and/or windows, doors, and skylights), as well as their replacement are specified to be Energy Star-qualified.	1
	Kitchen range directly vents to exterior and all hoods vent to the exterior dampered; Energy Star qualified bath fan where required with timer or humidistat.	1
	Energy Star qualified light fixtures throughout.	1

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

	<b>Criterion</b>	<b>Score</b>
	All initial water conserving appliances and fixtures and their on-going replacements conform to or exceed the EPA's Water Sense standards for toilets, kitchen faucets, bathroom faucets, and showerheads.	1
	Recycling space and equipment, including recycling bins for each apartment.	1
	Documentation required: Architectural drawings specifying spaces, equipment and/or systems required.	
	Documentation required: Designer's Preliminary Opinion Letter (Annex J of the Application Package, model of certification), specifying compliance with criteria.	
	Documentation required: Construction cost estimates identifying initial cost of equipment.	
	Documentation required: Proposed covenant provision for on-going replacements adopting most current program standard, included in letter of intent to sign Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package).	
	Construction permit is a Green Construction Permit ( <i>Permiso de Construcción Verde</i> ) from OGPe.	3
	Documentation required: Copy of Green Construction Permit ( <i>Permiso de Construcción Verde</i> ) from OGPe.	
	An Enterprise Green Communities' pre-build or a LEED Neighborhood Development Plan certification completed at date of application.	1
	Documentation required: Copy of certification.	
II.7	<b>Construction Readiness. Up to 5 points</b> if requesting only Tax Credits, and <b>up to 10 points</b> , if requesting HOME funds, will be awarded if the project has one of the following:	Up to 5 Pts
	Unexpired construction permit or notification of approval of the construction permit.	5
	Documentation required: Document issued by the Permits Management Office (OGPe), an Autonomous Municipality or a <i>Profesional Autorizado</i> .	
	Urbanization permit or notification of approval of the urbanization permit, recommendations from infrastructure agencies, along with threshold environmental applicable review format and Section 106 compliance, only if project does not require HOME funding.	3
	Documentation required: Urbanization permit and infrastructure recommendations issued by OGPe, Autonomous Municipality or a <i>Profesional Autorizado</i> , as might apply.	
	Documentation required: Applicable environmental review format (Phase I ESA, Compliance Determination with a Statutory Checklist format (for projects requiring HOME funds or rental assistance, among other programs, Environmental Assessment) filing completed with OGPe and copy of any required notice related to the specific Federal law and authority review triggered under the Compliance Determination or the Notice of Finding of No Significant Impact under the Environmental Assessment.	
	Documentation required: Compliance document issued by SHPO (e.g. Letter of no adverse effect, letter of no historic property affected by undertaking, programmatic agreement, MOU).	
	Recommendations from infrastructure agencies, along with threshold environmental applicable review format and Section 106 compliance, only if project does not require HOME funding.	1
	Documentation required: Same as under previous criterion (except for copy of Urbanization Permit).	

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
<b>III</b>	<b>Housing Needs Characteristics</b>	<b>Up to 14 Pts</b>
III.1	<b>Income Targeting.</b> A project might earn 3 points if at least 50% of the units in the project are targeted for households with incomes at 50% AMI.	2
	Documentation required: Proposed covenant provision for income targeting included in letter of intent to sign Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package).	
	Documentation required: Tenant selection procedures.	
III.2	<b>Targeted Units.</b> A project will be awarded <b>up to 3 points</b> if it sets-aside the applicable percentage of units for any of the following special populations categories identified in both the State Housing Plan and the Consolidated Plan: elderly households (62 years and older); homeless persons or families as defined under the HEARTH Act; single headed households; persons with HIV/AIDS. As follows:	Up to 3 pts
	if requesting Tax Credits, at least 75% of total project units set aside for the targeted group during the length of the extended use period, or the compliance period if the project is subjected to a qualified contract process or tenant homeownership conversion (right of first refusal); if requesting HOME funds at least 75% of total project units set aside for the targeted group during the length of the HOME compliance period.	3
	if requesting Tax Credits, at least 50% of total project units set aside for the targeted group during the length of the extended use period, or the compliance period if the project is subjected to a qualified contract process or tenant homeownership conversion (right of first refusal); if requesting HOME funds at least 50% of total project units set aside for the targeted group during the length of the HOME compliance period.	2
	if requesting Tax Credits, at least 25% of total project units set aside for the targeted group during the length of the extended use period, or the compliance period if the project is subjected to a qualified contract process or tenant homeownership conversion (right of first refusal); if requesting HOME funds at least 25% of total project units set aside for the targeted group during the length of the HOME compliance period; and if requesting PBV, 50% of total project units excepted.	1
	Documentation required: Proposed covenant provision for income targeting included in letter of intent to sign Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package), and recording the targeted set-aside for the length of the affordability period.	
	Documentation required: If requesting HOME, Affirmative Fair Housing Marketing Plan (similar to Annex S of the Application Package).	
	Documentation required: if requesting only Tax Credits, tenant selection procedures.	
III.3	<b>Preservation.</b> To strengthen the State Housing Plan policies that seek to maintain the stock of affordable rental housing a substantial rehabilitation project that meets the threshold expenditure level established under IRC 42(c)(3)(A)(ii), might earn <b>up to 3 points</b> if:	Up to 3 Pts
	The project curbs the risk of loss due to physical condition by replacing more than one major building component, which includes roof, bearing wall, floor or foundation structures; plumbing system; electrical system; fire prevention and safety system; vertical transportation; or building envelope.	2
	Documentation required: Comprehensive capital needs assessment certified by a licensed architect or civil engineer including the identification of the condition of major building systems and the extent of required code compliance retrofitting.	

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
	The project curbs a significant risk for market conversion of the tax credit or otherwise rent-assisted property; or preserves a comparable level of existing project-based rental subsidies that will expire within two years of the application date.	1
	Documentation required: Housing market study must demonstrate the capacity of the project to compete for market rate tenants; copy of existing HAP, if applicable.	
III.4	<b>Term.</b> If requesting Tax Credits, a project might earn <b>up to 3 points</b> for extending the term of affordability beyond the extended use period of thirty years for:	Up to 3 Pts
	At least 10 more years.	3
	At least 5 more years.	1
	Documentation required: Letter of intent to extend the initial 15-year period of compliance with the Tax Credit program's income and rent restriction requirements for a minimum of 15 additional years and sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package).	
	Documentation required: Project proforma.	
III.5	<b>Homeownership Conversion.</b> If requesting Tax Credits, a project will be awarded 1 point if proposed to be converted to tenant homeownership (right of first refusal) for the residents after the compliance period expires.	1
	Documentation required: Letter of intent to sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package, and reflecting a right of first refusal granted to the residents.	
	Documentation required: Syndication documents with conversion provisions.	
	Documentation required: Detailed plan with projections on maintenance, reserves, homeownership training, continued affordability, sales price calculation, lease and purchase agreements, and any other relevant information to demonstrate compliance with applicable regulations.	
III.6	<b>Public Housing Agency (PHA) Waiting Lists.</b> If requesting Tax Credits, any project included in any waiting list of a public housing agency (PHA) might earn 1 point.	1
	Documentation required: Referral agreement with the correspondent PHA to include the project in any listing of public housing opportunities where households with tenant-based subsidies are welcomed and where the project's owner or management agent agrees to actively seek referrals from the public housing authority to apply for units at the project. Also, Annex S, specifying in item 8 that "the owners will rent the units of the project to eligible families referred by the PHA from its waiting list or from their own waiting list if the PHA cannot provide adequate candidates, as determined and requested on the PHA's Administrative Plan".	
<b>IV.</b>	<b>Project Developer Characteristics</b>	<b>Up to 9 Pts</b>
IV.1	<b>Experience.</b> Developer, General Partner or Managing Partner can demonstrate successful record and full compliance participating in same capacity in the development of tax credit/HOME projects in Puerto Rico. <b>Up to 6 points</b> , a point will be awarded for each documented project, <b>up to a maximum of 3 projects</b> , for each one of the following comparable characteristics:	Up to 6 Pts
	If proposing to use only LIHTC or HOME, project demonstrating utilization of the respective LIHTC or HOME program, or in combination with other programs; if proposing to use LIHTC and HOME combined, or in combination with any other federal or state program, project utilization of similar program mix subsidizing development costs, long-term operations or providing long-term rental assistance.	1-3
	Similar or deeper share of income targeted populations.	1-3
	Documentation required: Copy of HAP, IRS form 8609 for each project, as applicable.	
	Documentation required: Relevant project documentation to support experience in particular project.	

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
	Documentation required: Certification issued by the Authority's Audit and Compliance Office, or the Department's Housing Subsidies and Community Development Division, as applicable.	
IV.2	<b>Financial Strength. Up to 3 points</b> might be awarded if developer, general partner and manager partner have:	Up to 3 Pts
	Combined current liquid assets equivalent to the greater of one million dollars (\$1,000,000) or 5% of the total development costs.	2
	Combined net worth equivalent to the greater of three million dollars (\$3,000,000) or 15% of total development costs.	1
	Documentation required: Compiled or revised financial statements certified by a licensed accountant.	
	Documentation required: Sources and Uses (Application, page 15).	
<b>V.</b>	<b>Financing Characteristics</b>	<b>Up to 13 Pts</b>
V.1	<b>Funds Leveraging.</b> The leveraging of capital funding from public grants or non financing sources, other than those being managed by the Authority, the Department of Housing or the Municipalities is encouraged by awarding a project <b>up to 5 points</b> as follows:	Up to 5 Pts
	At least 15% of the total development cost covered by other sources of public funding.	5
	At least 10% of the total development cost covered by other sources of public funding.	3
	Documentation required: Sources and Uses (Application, page 15).	
	Documentation required: Binding commitment, agreement or award documentation.	
V.2	<b>Local Government Funding. Up to 5 points</b> are awarded to projects that leverage local government capital funding through cash contributions, land donated or discounted, site or off-site improvements, grants, or a municipal construction tax abatement which is granted to the project and is not available under a local or state statute of general application, with a total value of:	Up to 5 Pts
	At least 5% of the total development cost.	5
	At least 3% of the total development cost.	3
	At least 1% of the total development cost.	1
	Documentation required: Sources and Uses (Application, page 15).	
	Documentation required: Binding commitment, agreement or award documentation.	
	Document required: If applicable Ordinance, Resolution or Bid supporting property transaction.	
	Document required: Evidence of site control by Owner: earnest money agreement, option or closing statement for land and/or buildings, title, deed or leasehold agreement (99 years or more, if requesting HOME), or equivalent for Municipal land transaction.	
	Document required: If applicable, documentation supporting construction tax abatement (Ordinance and/or Resolution).	
V.3	<b>Operating Expenses.</b> A project might be awarded 1 point if it meets the corresponding operating expense requirement on a per-unit per-annum (PUPA) basis in the first year:	
	For developments with 79 units or less, a PUPA not less than \$3,000 but not more than \$3,600.	1
	For developments with 80 to 120 units, a PUPA not less than \$2,900 but not more than \$3,400.	1
	For developments with 121 units or more, a PUPA not less than \$2,800 but not more than \$3,400.	1

**2016 Low-Income Housing Tax Credit Allocation Plan  
Puerto Rico Housing Finance Authority**

<b>Criterion</b>		<b>Score</b>
	Documentation required: Certification provided by the management agent.	
V.4	<b>State Funding.</b> Projects which have been contributed federal or state-owned land for redevelopment will be awarded 2 points.	3
	Documentation required: Copy of long-term lease agreement, deed, or letter of commitment.	
<b>VI.</b>	<b>Supportive Services</b>	<b>Up to 5 Pts</b>
VI.1	<b>Supportive Services.</b> To advance the public policy of the State Housing Plan to increase the provision supporting services by integrating agencies that provide these services and coordinate their actions to support permanent housing for populations with special needs, any project might earn <b>up to 5 points</b> for sustaining a funding allocation for the provision of supportive services of the type: 1) authorized under a federally subsidized program and that could be funded with resources obtained directly as a grantee in competitive or demonstrative grants, or as a recipient of rental or operational assistance (i.e. CoC, VASH, GPD, SSVF, Veteran Per Diem, CDBG, 811, 202, HOPWA, FSS Program, etc.), or indirectly as sub-grantee or provider, or by contracting the services of a sub-grantee or provider, of any state or municipally managed program (i.e.: ADFAN's CSGB, VRA's Independent Living, ASSMCA's Homeless and Chronic Mental Health, ADFAN's Adult and Person with Disabilities Services, Medicaid's Home and Community-Based Service Waivers, among other); or 2) contracted for a certified Assisted Living facility authorized under Act 244-2003, as follows:	
	Up to 5% of the project's annual operational cost for the length of the compliance period of affordability.	5
	Up to 3% of the project's annual operational cost for the length of the compliance period of affordability.	3
	Up to 1% of the project's annual operational cost for the length of the compliance period of affordability.	1
	Documentation required: Project proforma.	
	Documentation required: Letter of intent to sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package), and specifying operational budget commitment for supportive services.	
	Documentation required: If available, binding commitment, agreement or award documentation.	
	On-going compliance will have to be demonstrated through: financial reporting evidencing compliance with funding commitment; and supporting documentation of managed, contracted or purchased services funded or authorized by any federally subsidized program; relevant reporting under Act 224-2003.	
<b>Total Score</b>		<b>100</b>
<b>Minimum Score</b>		<b>30</b>
<b>VII</b>	<b>Tie-Breaking Criteria</b>	
	Will favor the project that is the readiest to proceed.	
	Will favor the project that is located in an Urban Area.	
	Will favor the project with highest debt service coverage ratio (DSCR).	
	Will favor the project located in a QCT and contributes to a concerted Community Revitalization Plan consistent with the policies of the Commonwealth or of a Municipality. Endorsement from competent entity must be provided, if case arises.	

Criterion	Score
Will favor the project that is located in a Municipality with the longer elapsed period without Tax Credit allocation.	

## 5.5. Tax Credit Allocation

### 5.5.1. Description

Following the Point Ranking calculation, projects will be ranked in descending order, most points to least points. The Authority anticipates reserving Tax Credits for those projects scoring highest under the Project Selection Criteria up to the amount the law and this QAP. The Authority anticipates reserving Tax Credits for each project in the list, starting with the highest scoring project, and continuing down the rankings, reserving Tax Credits and subtracting them from the cumulative balance of available Tax Credit for that year, until that balance reaches zero.

Tax Credit allocations for projects that receive binding commitments in prior years will be honored per the terms of such commitments, and projects competing under set asides will initially be ranked and compete only against other projects competing under such set asides, until the Tax Credit balance of such set asides reaches zero, whereupon such projects will be ranked and compete against all projects outside such set asides.

However, the credit allocation process may vary in order to further the public policy set forth in this QAP.

**THE RANKING UNDER THE PROJECT SELECTION CRITERIA DOES NOT VEST AN APPLICANT OR PROJECT WITH ANY RIGHT TO RESERVATION OR ALLOCATION OF TAX CREDITS.**

Applications for new constructions that will be placed in service within the next calendar year in which the application is submitted will receive the highest priority. Projects returning Tax Credits from a previous year allocation and not placed in service within the established two-year period will receive the lowest priority.

### 5.5.2. Allocation of Other Authority Administered Funds

It is possible that other programs and sources of funds the Authority manages may choose to rely on the Point Ranking System set forth in this QAP, as amended from time to time, to select projects to receive fund allocations.



It is also possible that such other sources of funds may be included as part of a particular project's pro forma statements calculated as described in Section VI(C)(2); that the Point Ranking of such project is sufficient to receive Tax Credits; yet that there are not sufficient funds in one or more of such other programs to meet the recommended amounts for such other program. In such situation, the Authority may, at its sole discretion and based on the criterion of necessity, adjust upwards the recommended Tax Credits up to the maximum limits prescribed in Section 42 of the Code.

### **5.5.3. Notification of Tax Credit Allocation**

The Authority will notify, in writing, to each applicant of an initial reservation of Tax Credits, or lack thereof. The Executive Director of the Authority will sign the letter awarding, or denying, reservation of Tax Credits. For successful applicants, the initial reservation letter will specify the preliminary amount of annual tax credits, any additional information and documentation required to adjust said amount to established parameters, and the date by which to submit to the Authority such information and documentation necessary to receive the final allocation. The Initial Reservation Letter will also include:

- 5.5.3.1. Itemization of adjustments to costs, income, expenses and underwriting assumptions made to the application.
- 5.5.3.2. Any deficiency in sources of funds for the project based on the information submitted with the application, and a reasonable time to present additional sources of funds already committed to cover such deficiency, subject to cancellation of the Initial Reservation Letter.

### **5.5.4. Review**

- 5.5.4.1. An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may submit a written petition for reconsideration to the Executive Director of the Authority within ten (10) calendar days after the notification by mail of the letter denying the application. A copy of the petition for reconsideration must be filed with the Financing and Tax Credit Department.
- 5.5.4.2. The Authority shall consider the petition for reconsideration within ten (10) calendar days of filing. If the Authority makes a determination upon the merits of the petition for reconsideration, the term to petition for judicial review shall commence as of the date of the notification by mail of the final determination. If the Authority takes no action with respect to the petition

for reconsideration within ten (10) calendar days of filing, the petition for reconsideration shall be deemed to have been denied outright and the term for judicial review shall commence to run as of that date.

- 5.5.4.3. An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may present a petition for review before the Court of Appeals within ten (10) calendar days after the notification by mail of the letter denying the application, or within ten (10) calendar days after the expiration of the term provided to the Authority to consider the petition for reconsideration.
- 5.5.4.4. The filing of a petition for reconsideration or a petition for judicial review shall not stay the Authority's allocation of Tax Credits to successful applicants. If an applicant who petitions for review obtains a final order or judicial decree that modifies the decision of the Authority, so that the application is worthy of a reservation of Tax Credits, the Authority shall provide the applicant with a reservation of Tax Credits from the next available allocation round, whether in the current year or a subsequent year.
- 5.5.4.5. The reconsideration and judicial review procedure provided herein shall be the exclusive proceeding to review the merits of a decision of the Authority regarding the reservation or allocation of Tax Credits pursuant to this QAP.
- 5.5.4.6. Other regulations regarding formal or informal adjudicatory proceedings before the Authority are not applicable to Tax Credit reservation and allocation decisions.

## 6. Issuance of Tax Credits

### 6.1. Reservation of Tax Credits Beyond Actual Allocation Year

The Authority recognizes that the process to construct or rehabilitate housing projects in Puerto Rico may become a burdensome one. Moreover, construction or rehabilitation of housing projects may occur over a longer period of time than they otherwise might have. The Authority also acknowledges that some projects, especially those participating in an extensive community undertaking might require a larger allocation of credits and placed-in-service dates may occur in different years.

The Authority recognizes, as well, that investors require a level of comfort that such type of projects will be completed and placed in service in the scheduled timeframes.

**2016 Low-Income Housing Tax Credit Allocation Plan**  
**Puerto Rico Housing Finance Authority**

In order to take into account the unique facts and circumstances and concerns described above, and in order to assist with meeting the housing needs and goals of the 2014-2018 State Housing Plan, while balancing the Authority's position with respect to any single large allocation of Tax Credits, the Authority may award a binding commitment in one year to make a Carryover Allocation for certain percentages of Tax Credits in following years in certain circumstances (Binding Commitment).

Applicants may apply to reserve Tax Credits and sign a Binding Commitment with the Authority to allocate Tax Credits at a future date. To such end, the Authority may reserve Tax Credits or bind itself to allocate Tax Credits to a project during the taxable years following the year in which the application is made. Section 42(h)(1)(C) of the Code determines that a reservation or Binding Commitment to allocate Tax Credits in a future year has no effect on the state housing Tax Credit ceiling until the year in which the Authority actually makes the allocation. (Annex E).

The Authority might also consider entering into a Binding Commitment with an owner of a project, even if the project fails to meet one of the above categories, if the circumstances of the project, per the Authority's sole discretion, are deemed necessary.

Depending on the circumstances and in the Authority's sole discretion, Projects with Binding Commitments may be required to file an application in the year the Tax Credits are committed and go through the Basic Threshold Qualification Process and comply with at least the Minimum Requirement of the Point Ranking System. In addition, the owner will not pay the Application Fee but rather a Processing Fee of .25% of the annual Tax Credit requested will be included with the application.

In order for the applicant to preserve a Binding Commitment for an allocation of Tax Credits, the applicant must provide an updated memorandum every six (6) months after receiving the Binding Commitment, to confirm that any information provided in the application remains true, correct and complete in all material respects, or provide specific details for any exceptions, as well as any other information that the Authority may reasonably request. If there are any material exceptions, the Authority reserves the right to revoke the Binding Commitment.

**6.1.1. Tax Credit dollar amount will be determined at:**

**6.1.1.1. Initial /Reservation of Tax Credits**

**6.1.1.2. Carryover Allocation**

A development with a Binding Commitment, but which will not be placed in service by December 31, may be eligible for a carryover allocation (Carryover Allocation).

To sign the Carryover Allocation, the owner must provide:

- 6.1.1.2.1. any changes in the circumstances of the project (budget, design, and/or permitting); and
- 6.1.1.2.2. Owner's Certification, disclosing any Federal, State, or local subsidies that the applicant has received, or expects to receive, for the development and operation of the project.

**The Authority reserves the right to disqualify any applicant if it determines that the construction will not be ready to begin within six months after the signing of the Carryover Allocation Agreement.**

## **6.2. Additional Tax Credits**

The Tax Credit amount will not automatically be increased above the initial reservation request or allocation amount. If the owner of a project that received a Carryover Allocation of Tax Credits determines that additional credits are necessary to make the project financially feasible, the owner must apply for additional Tax Credits in a subsequent year or cycle. The owner will need to submit a complete package and a full fee.

For projects financed with volume-cap tax-exempt obligations the Authority reserves the right, based upon pertinent circumstances, to reduce or waive the required fee for additional Tax Credits or the requirement of a complete package.

All restrictions and requirements of the original Carryover Allocation shall remain in full force and effect for the additional Tax Credits.

## **6.3. Placed-in-Service**

The Authority will issue IRS Form 8609-Low-Income Housing Credit Allocation and Certification (Form 8609) after the placement-in-service date, and receipt and review of:

- 6.3.1. Certificate of Occupancy (*Permiso de Uso*).
- 6.3.2. Independent CPA Final Cost Certification of project development (Annex M)
- 6.3.3. Designer's Certification of Completion of Construction (Annex N).
- 6.3.4. Updated operating budget and 30-year pro forma cash flows.

- 6.3.5. Owner's Certification of any federal, state, or local subsidies received, or expected to be received, to develop and operate the project.
- 6.3.6. Authority's independent consultant physical inspection and cost certification review.
- 6.3.7. Any other document the Authority may determine as necessary.

The amount of Tax Credits allocated as set forth in Form 8609 may be different from the amount requested in the application, the amount specified in the Initial Reservation Letter, Binding Commitment, or the amount in a Carryover Allocation.

#### **6.4. Changes of Actual Development Costs or Other Circumstances**

The Authority reserves the right, in its sole discretion, to reserve or allocate less Tax Credits than the amount requested in the application based on the information the applicant or any independent consultant submitted and Section 42 requirements.

#### **6.5. Calendar Requirements**

##### **6.5.1. Carryover Allocation Requirements**

The Code requires more than 10% of the project's reasonably expected basis be incurred by the close of:

- 6.5.1.1. the carryover allocation calendar year, if Carryover Allocation is made before July 1; or
- 6.5.1.2. year after the date of the Carryover Allocation Agreement, if made after June 30.

After the reservation process is final, the owner and the Authority must sign a Carryover Agreement allowing the carryover of Tax Credits. At the time of the execution of the Carryover Agreement, Owners must have title of the property, or acquire such title within the next six months, and approval from all the corresponding governmental agencies to develop the project. The Authority requires expenditure of and cost certification of 10% of the costs to be submitted to the Authority within 1 year of the date of the Carryover Allocation (Annex L). All fees due to the Authority must be paid by that date.

#### **6.6. Placed-in-Service Date**

With respect to Carryover Allocations, the building must be placed in service within 24 months after the end of the carryover allocation calendar year.

- 6.6.1. For new construction and existing buildings, placed-in-service usually means the date the building receives a Certificate of Occupancy (*Permiso de Uso*).
- 6.6.2. For substantial rehabilitation, placed-in-service means the last day of the 24-month period (or shorter period if the rehabilitation is complete, if the owner elects) for aggregating rehabilitation costs.

## 7. Other Procedural Requirements

The Authority will notify the Mayor of the Municipality where the project will be located of the proposal at the time of the Tax Credits' reservation and will have a reasonable opportunity to comment on the project.

## 8. Time Frame

Tax Credit applications will abide by the following reservation/allocation cycles. Additional cycles may be available if there are Tax Credits after the Authority exhausted its reservation/allocation process. The interested party may contact the Authority to ask for additional cycles, if any.

As directed by the State Housing Plan to leverage project funding from multiple sources, with underwriting criteria that will result in projects meeting its priorities, the Authority will release a NOFA to request Tax Credit Applications.

Any and all amendments to the application schedule, prior to the release of the NOFA, and any changes thereafter to the schedule will be notified to the public through the Authority's website. If any of the due dates for application or reservation falls on a non-working day or on an official holiday, it will be moved to the following working day.

Notwithstanding any information that may be contained in the RFP and amendments thereto, respondents are responsible for obtaining all information required, thus enabling them to submit timely and complete responses to the requirements of the NOFA. Failure to obtain clarifications and/or addenda from the Authority will not relieve the respondent from being bound by any additional terms and/or conditions in the clarification and/or addenda. The Authority will not be responsible for respondent's failure to consider additional information contained therein in preparing the proposal.

**8.1. Schedule of Application for 2016 Cycle**

Event	Date
QAP Draft Available for Public Comments	June 10, 2016
QAP Public Hearing	June 30, 2016
QAP Written Comments Deadline	July 11, 2016
Applications Opening Date (after Governor's Approval and NOFA Release)	July 26, 2016
Advanced Section 106 Review Documentation Submission Deadline	August 19, 2016
Applications Closing Date	September 23, 2016
Ranking & Reservation	TBD
Closing of Carryover Agreement	TBD
10% Cost Certification	TBD

Cost Certifications for projects receiving allocations to be placed in service are due during the same calendar year of the application and 10% certification for projects receiving a carryover allocation. (Annexes L and M)

**9. Tax-Exempt Financed Projects not Subject to Annual Tax Credit Volume Cap**

Projects financed with tax-exempt obligations issued after December 31, 1989 [Section 42(h)(4)], are not subject to the Tax Credit annual volume cap, but are subject to the state private activity bond volume cap. These applications do not have to comply with the time frames set out in Section VIII and may be filed, and Tax Credits awarded, any time. Nonetheless, these projects must satisfy the Basic Threshold Qualification Requirements and other requirements for allocation under this Plan pursuant to Section 42(h)(4). Therefore, the projects will be subject to the evaluation of housing priorities, minimum thresholds discussed above, the Point Ranking System minimum requirement of 30 points and the fees determined in Section XI. They will not be subject to the Tax Credit allocation process. Applicants must include a letter from the lender stating the tax-exempt status of the obligations issued to finance the project and a certification from its tax attorney or CPA certifying that this requirement is met. If the Authority is the Lender, the letter will not be required.

**10. Qualified Contract Process**

Projects awarded Tax Credits are subject to the extended compliance period embodied in the recorded extended use agreement.

The Qualified Contract (QC) option, included in the Tax Credit legislation, is designed to permit owners of Tax Credit properties to exit the program after the initial 15-year compliance period without continued affordability restrictions on the property.

The QC is a bona fide contract to acquire the Tax Credit project for a determined price. Should the Authority be unable to present a QC, the extended use period can be terminated. A qualified contract may be requested at any point after the fourteenth (14<sup>th</sup>) year of the compliance period.

The terms, conditions, and procedures contained herein (Annex P, QC Process) will allow the Authority to administer qualified contract requests from property owners who make a request under IRS Code Section 42(h)(6)(E)(i)(II) (QC Request).

## **11. Compliance, Fees and Penalties**

### **11.1. Procedure for Notification to IRS of Noncompliance**

Federal legislation requires that each Allocation Plan include a procedure that the Authority will follow in notifying the IRS of noncompliance with the program. The Authority will require owners to furnish annual certifications of qualified low-income tenants, including tenant income and rents charged, the number of qualifying low-income units, as well as any other information pertinent to determine compliance.

The specific requirements of the Authority to implement this mandate are covered in the Compliance Monitoring Plan, which is hereby incorporated and made a part of this Plan (Annex O).

In making the application for Tax Credits, the owner agrees that the Authority and its designees will have access to any project information. This includes physical access to the project, financial records and tenant information for any monitoring that may be deemed necessary to determine compliance with the Code.

Owners are advised that the Authority is required to do compliance monitoring and to notify the IRS and the owner of any discovered noncompliance with Tax Credit law and regulations, whether corrected or uncorrected.

## **12. Fees**

The application package costs \$100 and includes the Allocation Plan, Compliance Monitoring Plan, Procedural Steps, and Instructions. The Authority will also charge the following fees:



## 12.1. Application Related Fees

12.1.1. **Tax Credit:** One thousand dollars (\$1,000.00) filing fee. This is a **non-refundable and non-transferable payment**, which shall be submitted along with the application, regardless of the result of the Authority's evaluation and determination.

12.1.2. **HOME:** ½ of 1% of requested amount; with a minimum payment of \$2,500 and a maximum payment of \$10,000. This is a **non-refundable and non-transferable payment**.

12.1.3. **Tax Credit:** **Two percent (2.0%) of annual amount requested** application fee. This is a **non-transferable fee**, which shall be submitted along with the application. At its sole discretion, the Authority might consider the **return of half of the fee amount** if the project is not awarded a reservation of credits.

12.1.4. **Projects with Binding Commitments** will be charged a processing fee of .25% of the annual Tax Credit requested.

### 12.1.5. Projects using 4% tax-exempt bonds:

12.1.5.1. **Origination issuer fee:** 25 basis points of the amount of debt issued (upfront); and

12.1.5.2. **Annual issuer fee:** 12.5 basis points of outstanding bonds (in arrears).

12.1.5.3. **Atypical transactions** (under the Authority's discretion) will double amounts above, to 50 basis points and 25 basis points, respectively.

## 12.2. Allocating Fee

**One percent (1%) of the total ten years allocated amount.** The allocating fee will be paid at the time the allocation is made through certified or manager's check. In case of Carryover Allocations under Section 42, the fee will be paid at the time of signing the agreement through certified or manager's check. Allocation fees are neither refundable nor transferable.

## 12.3. Qualified Contract Request Fee

The Authority will charge a \$5,000 fee at the time a Qualified Contract request is filed by an owner.

#### 12.4. Monitoring/Asset Management Fee

12.4.1. If a credit allocation is made, the Authority will charge **\$75 (Monitoring - \$25; Asset Management - \$50) per each low-income housing tax credit (LIHTC) unit during the compliance period (first 15 years) and the extended use period (after the first 15 years)**. This amount will be due and payable by January 31 of each year.

12.4.2. Projects financed with tax-exempt debt will be charged an additional **\$25 fee per unit** for compliance monitoring with IRC Section 142, applicable until all tax-exempt debt is fully extinguished.

12.4.3. **HOME: \$50 per HOME unit** during the HOME compliance period. This amount will be due and payable by January 31 of each year.

12.4.4. The Authority will charge \$100 per unit in projects with LIHTCs and HOME (includes Monitoring, Asset Management, and HOME fees) throughout the HOME compliance period, after which the fee under 12.4.1 will be charged for the remainder of the LIHTC extended period to those projects that receive LIHTCs. This amount will be due and payable by January 31 of each year.

The Authority may revise the fees as necessary to insure they cover the Authority's processing expenses and compliance monitoring.

#### 13. Penalties and Other Fees

If a sponsor, owner, developer or consultant has a **past due fee** (regardless of the type) in a previous project, the Authority will not reserve credits for the new project until the account is paid in full.

In any litigation, arbitration, or other proceeding arising from, as a result of or pursuant to this QAP and/or the resulting Tax Credit allocation cycle, selection process or award determination under any participating program, including the HOME Program, or any other proceeding arising from or as a result of or pursuant to any noncompliance during the construction and/or operation of a project, when the Authority appears as a party, intervener or *amicus curiae*, **the sponsor and/or owner and/or developer shall reimburse the Authority** reasonable attorney's fees, costs, and expenses incurred, regardless of which party initiated the litigation, arbitration, or other proceeding.

#### 14. Scope and Future Amendments

Federal legislation directs the Authority to allocate only that amount of Tax Credits required to make the project economically feasible. The Authority's determination is discretionary and in no way constitutes a representation or warranty, express or implied, to any sponsor, lender, investor, or third party as to the feasibility of a given project, or to the project owner, investors, lender, or third party that its allocation determines that the project adheres to Code, Treasury regulations, or any other applicable laws or regulations.

The Authority reserves the power to administer, operate and manage tax credits allocation in all situations and circumstances, both foreseen and unforeseen in the Plan. No member, employee, or agent of the Authority shall be personally liable respecting any matter or matters arising out of, or in relation to, the Tax Credits.



José A. Sierra Morales  
Executive Director  
Puerto Rico Housing Finance Authority

I, Alejandro García Padilla, Governor of the Commonwealth of Puerto Rico, hereby approve the Low-income Housing Tax Credit Allocation Plan for the Commonwealth of Puerto Rico adopted by Puerto Rico Housing Finance Authority, a subsidiary of the Government Development Bank for Puerto Rico, as the State Housing Credit Authority under the provisions of Section 42 of the Internal Revenue Code of 1986, as amended.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the Commonwealth of Puerto Rico, in San Juan, Puerto Rico, this 29 day of July, 2016.



GOVERNOR