



VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

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U.S. VIRGIN ISLANDS LOW INCOME HOUSING TAX CREDIT PROGRAM 2015 QUALIFIED ALLOCATION PLAN

INTRODUCTION

The Low Income Housing Tax Credit (LIHTC) is a tax incentive intended to increase private participation in the development of low-income rental housing. The LIHTC was added to Section 42 of the Internal Revenue Code ("Section 42") in 1986. The program provides an income tax credit to owners of certain newly constructed or substantially rehabilitated low-income rental housing projects. The program is currently the single largest source of federal capital subsidy to create and preserve affordable rental housing.

Under Section 42, the Internal Revenue Service allocates LIHTCs to states and territories on a per capita basis. States in turn designate an agency to allocate LIHTCs using competitive criteria established in accordance with Section 42. The Virgin Islands Housing Finance Authority ("VIHFA") has been designated as the state housing credit agency for the Territory of U.S. Virgin Islands for the purposes of allocating and administering the LIHTC Program.

The annual amount of Low Income Housing Tax Credits available for allocation by each jurisdiction is determined by population. The allocation is currently \$2.30 per capita, based on the population data according to the most recent decennial census; however, a minimum annual cap is provided for small states and territories. **For calendar 2015, the annual Tax Credit Allocation for the U.S. Virgin Islands is \$2,680,000.**

VIHFA encourages the development of projects that maximize the utilization of tax credits, thus alleviating the need for heavy public subsidy. Particular emphasis is on the development of new projects located in areas where the need for low-income housing is greatest.

Pursuant to Section 42(m)(1)(B)(ii), each jurisdiction is required to develop a "**Qualified Allocation Plan**", which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions and which also gives certain preferences when allocating housing credit dollar amounts among selected projects. The VIHFA has developed this Qualified Allocation Plan ("QAP") to establish the selection criteria and define the process for allocation of LIHTCs in the U.S. Virgin Islands.

PRESCRIBED PREFERENCES

In allocating housing credit dollar amounts among selected projects which meet the basic selection criteria, preference shall be given to certain projects pursuant to Section 42 (m)(1)(B)ii):

- 1. Projects which serve the lowest income tenants;**
- 2. Projects which will serve qualified tenants for the longest periods of time (highest priority will be given to those projects where the owner signs a binding agreement to keep the project's low-income status for 30 or more years);**
- 3. Projects which agree to waive the option to exercise the qualified contract provision**
- 4. Projects located in "targeted areas" - the development of which will contribute to a concerted community revitalization effort. For the purpose of this Qualified Allocation Plan, these areas include the designated Enterprise Zones in each respective island district, Contant (St. Thomas), Contentment (St. Croix) and additional areas as may be designated by the VIHFA.**

SELECTION CRITERIA

Section 42(m)(1)(C) outlines certain selection criteria to be set forth in a qualified allocation plan; thus, the VIHFA has adopted the following selection criteria which will be used to determine the housing priorities of the Territory which are appropriate to local conditions:

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

PRIMARY ALLOCATION PRIORITIES

The VIHFA uses the U.S. Department of Housing and Urban Development's Consolidated Plan process to assess U.S. Virgin Islands' affordable housing and community development needs and market conditions. The Consolidated Plan is primarily used as a tool to coordinate several federal housing resources that are administered at the local level. The priorities of this QAP are based on conclusions contained in the 2010-2014 Consolidated Plan, the latest housing demand study, statistical information from other sources to include the census, public forums on QAP priorities, and extensive discussions with the affordable housing community. These priorities are:

- New construction (adding new units to housing markets)
- Non-age restricted housing
- Readiness to proceed (i.e. ability to get to construction in a relatively short period)
- Non-profit sponsored housing
- High quality of construction, including energy efficiency

- Projects that achieve broad community development objectives, including “smart growth” and neighborhood revitalization
- Cost containment

After reviewing the Territory’s housing needs, the VIHFA finds that the need for affordable rental housing is Territory-wide.

LIHTC AVAILABILITY AND SET-ASIDES

A. LIHTC Available

U.S. Virgin Islands’ 2015 LIHTC amount is estimated at \$2,680,000.00.

B. Non-Profit Set-Aside

Federal LIHTC regulations require that at least 10% of the jurisdiction’s annual LIHTC allocation must be set aside for qualified non-profit organizations that:

- meet the tax exempt requirements of Section 501(c)(3) or (c)(4) of the Internal Revenue Code;
- own a controlling interest in a project and materially participates, as defined in the IRS Code and as further clarified at Chapter 22 of the IRS’ 8823 Audit Guide, in the acquisition, development, ownership, and ongoing operation/management of the property for the entire duration of the compliance period;
- have the fostering of low-income housing as one of its exempt purposes

Note: Wholly owned affiliates of a non-profit are eligible as qualified non-profit organizations.

The VIHFA reserves the right to make a determination that the nonprofit owner is not affiliated with or controlled by a for-profit entity or entities other than a qualified corporation.

Other than the non-profit set-aside, no preference will be given to any other type of sponsor.

C. Credit Carryforward

If tax credits are still available upon completion of the annual application cycle, VIHFA may either carry forward the remaining tax credits to the next year or may opt to conduct a second application cycle.

D. Supplemental Award

For projects returning for supplemental LIHTCs after having received a carryover allocation in an earlier year, the project must meet one or more of the following criteria:

- The project has incurred or faces substantial, unforeseen cost increases
- The project is subject to an unanticipated reduction in equity yield on the sale of the LIHTCs
- Supplemental LIHTCs would reduce the level of VIHFA capital subsidy funding.
- Supplemental LIHTCs would improve the project’s financial feasibility but keep it consistent with the VIHFA’s Multi-Family Underwriting Standards.

Allocations made under these circumstances can be up to 10% of the original allocation amount. The decision will be made by the LIHTC Evaluation Committee and approved by the Executive Director.

E. FORWARD COMMITMENT

The Agency may make a forward commitment of the next year's tax credits in an amount necessary to fully fund project(s) with a partial award or to any project application that was submitted in a prior year if such application meets all the minimum requirements of the Plan.

F. RETURNED ALLOCATIONS

An owner returning a valid allocation of tax credits between October 1 and December 31 of the second year following the allocation year will receive an allocation of the same amount of tax credits from the subsequent year if:

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

None of the Principals for the returned project may be part of another application for credits for that year. A project receiving a new (exchange) allocation of credits after returning a valid allocation of a previous year's credits must place in service before the close of the year of the new credit (exchange) allocation.

In the event that credits are returned or the state receives credits from the national pool, the Agency may elect to carry such credits forward, make an award to any project application (subject only to the nonprofit set aside), or a combination of both.

Unused or returned credits may be carried forward for two (2) years; if not used by then, credits go into a National Pool to be re-allocated among qualified states.

KEY PROGRAM POLICIES

A. Maximum Number of Applications and Projects

No applicant (as one of the general partners or as a development agent) can receive more than one 9% project reservation in the year, unless the second award is a supplemental application for a previously approved project.

The VIHFA will not accept a new application if an applicant (including any general partner) has two or more LIHTC projects that have not yet been completed (i.e., IRS Form 8609's issued), including "out-of-cap" tax exempt bond financed projects.

B. Per Unit Cost Standards/Housing Investment Limits

Project applications will be evaluated for cost reasonableness. Applications which indicate unreasonably high total or specific line item development costs may be rejected.

APPLICATION PROCESS

A. Application Form

The VIHFA requires the submittal of an application. The application form is available on VIHFA's website at www.vihfa.gov or from VIHFA's offices in either district.

B. Application Deadline

The application deadline is June 30, 2015.

Note: The VIHFA reserves the right to conduct a second application cycle if the entire amount of credits available for allocation has not been reserved upon completion of the initial application round. In the event that the entire credit authority is not awarded upon review of the applications received, the VIHFA reserves the right to conduct a second application cycle. If it is determined that a second round will be held, notification will be published in the local media and on VIHFA's website by no later than May 31; applications for the second round shall be due by September 15.

C. Application Submittals

The application form and all supporting documents including but not limited to site maps, schematics, market study, corporate documents, as applicable, shall be submitted in hard copy format to the VIHFA's offices located at 3202 Demarara Plaza, Suite #200, St. Thomas, VI 00802 or 100 Lagoon Complex, Suite 4, Frederiksted, St. Croix 00840 by the stated deadline.

The application fee \$750.00 (\$600.00 for non-profit applicants) shall be submitted with the application. The fee is payable by check or money order.

THRESHOLD CRITERIA

Projects must meet the threshold criteria listed below to qualify for a reservation and allocation of LIHTC. Projects may be rejected at any time during the allocation process for failure to meet the threshold criteria.

A. Feasibility and Appropriateness

The proposed project's characteristics or location must be considered feasible from a financial and regulatory standpoint.

B. Demand

Potential market demand must be proven, and the proposed project must not negatively affect an existing publicly-assisted affordable rental property. VIHFA will rely on the findings of the market study for the proposed property to determine whether negative impact on an existing publicly-assisted property is anticipated.

C. Capacity

The project's general partner or management agent must:

- Have the experience or ability to successfully complete the project;
- Have started construction within six months from the date of the carryover allocation on a current project;
- Be compliant or otherwise not in default with this or any other VIHFA program as determined by the VIHFA;
- Not have a history of noncompliance in LIHTC or other VIHFA programs;
- Have met the specific requirements of the Extended Use Agreement (EUA) for previous projects; or
- Not have any significant negative LIHTC history with other state allocating agencies.

D. Site Control

Applicant must have secure site control. The applicant must have title to the property in the form of a deed, a ground lease, or an option to acquire (purchase) or lease in order for the project to qualify for a carry-over allocation.

E. Cost Reasonableness

The proposed development or operating budget must not be unreasonably costly or otherwise unsatisfactory. The project application must meet the QAP's investment limit or overall per unit development cost limit.

F. Completion of Prior Phase

If a phased project, the earlier phase(s) of the project already in receipt of a reservation or LIHTC allocation must be complete and lease-up must be substantially completed (meaning at least 90% of units have been leased). The Applicant must show evidence that the original phase(s) of the project has achieved a minimum of three (3) months of break-even operations.

G. Readiness

The project must be able to satisfy the criteria of the Progress Phase Requirements (Appendix A) within six (6) months of the date of application.

SCORING

A. Scoring Criteria

Each project will be scored using the criteria listed below. The scoring criteria address most of the selection criteria and preferences outlined in the Code.

In order to obtain points for the respective criteria, the applicant shall provide documentation where applicable. Any supportive documentation is subject to verification, and the VIHFA may require additional information as a condition of awarding points. The VIHFA may reject any documentation deemed to be insufficient, unsupported, or inadequate for the particular scoring criteria.

1. Non-Age Restricted Units 10 points

Projects cannot have “senior” or other age-restricted designation.

Non-age restricted projects with greater than or equal to 50% of the units having 2 or more bedrooms. Note: A project that has occupancy restrictions or preferences that favor tenants with special needs and can demonstrate the need for one bedroom units exclusively will be given the ten (10) points.

2. Income Targeting

(a) Projects with 100% of its units as LIHTC units 10 points

Note: A 100% LIHTC project that has greater than or equal to 10% of the total number of units reserved for extremely low income ($\leq 30\%$ AMI) will receive five (5) additional points.

or

(b) Projects with at least 75% of its units as LIHTC units 5 points

Note: A project that has greater than or equal to 10% of the total number of units reserved for extremely low income ($\leq 30\%$ AMI) or greater than or equal to 40% of the total number of units reserved for very low income ($\leq 50\%$ AMI) will receive five (5) additional points.

3. Supportive Housing Serving Homeless – Non-age Restricted, Elderly, or Veterans 15 points

Each household must be homeless or at imminent risk of homelessness immediately prior to tenancy and be identified as needing services to maintain housing. Certification of homeless status must be obtained. Eligible projects may be either transitional or permanent supportive housing and may use the single room occupancy (SRO) model. Services may be provided for residents through a third party or the project, but must include at a minimum:

- An initial assessment of each resident’s needs within thirty (30) days of move-in and development of a written plan to address those needs
- Regular case management, including ongoing assessments of residents’ needs and the efficacy of the services being provided in meeting the identified needs.
- Coordination of benefits and services to assist residents in becoming permanently housed.

4. Community-Based Supported Housing/Proposed Projects. 5 points

(a) Projects committing 10% of new units for individuals with disabilities as defined. Federal laws define a person with a disability as "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."
Units shall be committed on an "as available" basis subject to the "next available unit" requirement.

(b) Projects offering integrated Permanent Supportive Housing (PSH) Opportunities for persons who are homeless or "at risk of homelessness".
To meet this priority, the project must provide at least 10% and not more than 25% of its total units to households with incomes at or below 30% of area median income **and** headed by one of the following:

For general occupancy projects:

- o Non-elderly person with disabilities (PWD), including persons referred by the V.I. Department of Human Services, Center for Independent Living, V.I. Advocacy Agency
- o Youth aging out of foster care;
- o Persons transitioning from correctional facilities; or
- o Homeless veterans.

For Elderly Projects:

- o Elderly persons with disabilities (PWD);
- o Elderly persons with special needs;
- o Elderly persons who are homeless;
- o Elderly persons transitioning from correctional facilities or other facilities or institutions;
- or
- o Elderly veterans.

To meet this priority, units must be reserved exclusively for the targeted population and applications must include a letter from or memorandum of understanding or other agreement with an entity that will assist the applicant in marketing the units to the targeted population. Additionally, projects with non-elderly PWD units must agree to provide notice of unit availability to and accept referrals from DHS etc. in addition to any other marketing and referrals the project chooses to do. If a project is unable to fill a unit with the targeted population after a ninety (90) calendar day referral period, the unit may be leased to another household with income at 30% AMI or below.

The next available 30% AMI unit in the Project shall be marketed to the Project's original targeted population until the project is in compliance with its targeted percentage (i.e., 10-25%). The ninety (90) calendar day period at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date upon which the unit is determined ready for occupancy following move-out by the prior tenants and completion of any unit turn cleaning, repairs, or maintenance.

5. Preservation of Existing Affordable Housing **5 points**

To meet this priority, the project must involve the acquisition and rehabilitation of an existing multifamily rental housing development, whether or not it has existing rent or income restrictions, provided the project:

1. Agrees to affordability restrictions for at least thirty (30) years; and
2. Is not financially feasible using tax-exempt bond financing, as determined by VIHFA.

For the purpose of qualifying for this priority, rehabilitation means repair of or alterations to an existing building, or buildings, where a majority of the structural elements of the original building or buildings, at a minimum, is incorporated into the finished project. In its discretion, VIHFA may permit a project to meet this priority if the project involves the demolition and replacement of an existing occupied housing project if rehabilitation of the existing building or buildings is infeasible or impractical. The replacement project must comply with VIHFA's policies concerning displacement and relocation of existing tenants.

6. Public Housing Waiting List **5 points**

Projects where a Public Housing Authority, VIHFA (or an affiliate thereof) has an ownership in, and materially participates in the management of, public housing or housing with project-based Section 8 vouchers.

7. Project Grants and Assistance **5 points**

Projects which will have rental assistance subsidy for at least 66% of the units for at least five years.

This point category is not available to existing projects requiring minimal rehabilitation.

8. Waiver of Qualified Contract **10 points**

Projects that waive the right to request a qualified contract under Section 42(h)(6)(E)(i) of the Internal Revenue Code

9. Community Development Component **10 points**

- a. Projects in existing downtown or neighborhood infill site, or adaptive reuse of existing buildings.
- or -

Projects that are part of a larger comprehensive revitalization strategy/effort supported by the Territorial government. The minimum size improvement zone for this scoring category is generally a one block area, but cannot have been specifically created for the benefit of the proposed project. The formal designation must come from an official act by a government agency, such as the Office of the Governor, State Housing Preservation Office, Economic Development Authority.

10. Development Team Experience **0 to 10 points**

To receive points for this category, the proposed development team members must have successfully participated in the development of at least two (2) other LIHTC properties of similar size or larger. The scoring gives preference to individual development team members based on local experience, performance, and satisfaction of LIHTC training/certification requirements.

11. Management Experience**0 to 5 points**

To receive points for this category, the proposed management agent must have at least five (5) years experience in the management of LIHTC properties. The scoring gives preference to management agents based on experience, performance, and satisfaction of LIHTC training/certification requirements.

12. Energy Efficiency/ Green Building Technology**10 points**

Projects which promote energy and water conservation, operational savings and sustainable building practices in affordable housing design may be awarded up to 10 points as follows:

ENERGY STAR Version 3 - Guam, Hawaii, & Puerto Rico	Enterprise Green Communities	LEED for Homes	ICC 700 National Green Building Standard	Number of Points
Certified				8
		Certified	Bronze	9
	Certified	Silver or higher	Silver or higher	10

Please refer to Appendix D for a detailed listing of the minimum energy conservation design requirements for all development projects.

BONUS:**Tenant Ownership Conversion****5 points**

Projects which propose conversion to tenant ownership upon completion of the initial compliance period will qualify for a bonus of five (5) points.

To receive the bonus, the application must include a detailed plan for the execution of the proposed homeownership conversion to include the type of ownership proposed, criteria for participation in the conversion initiative (selection criteria, preferences), planned home buyer education programs for tenants, and anticipated sales price by unit type/size. The applicant must also have experience with at least one (1) successful conversion of a LIHTC property.

B. Tiebreakers

In the case of a scoring tie, the tiebreakers shall be:

1. The project with the highest percentage of LIHTC-eligible units, compared to total units, is favored.
2. If still tied, the most efficient use of LIHTCs (i.e. lowest amount of LIHTCs per rent restricted unit) is favored.

ALLOCATION PROCESS

A. Reservation of LIHTC

All applications are reviewed for completeness. Incomplete applications will be rejected, though minor variances may be deemed acceptable. The VIHFA may reject any documentation deemed to be insufficient, unsupported, or inadequate for the particular scoring criteria. The VIHFA is not required to notify the applicant of inconsistencies or missing information.

Applications are scored and ranked in accordance with the Scoring Criteria

Projects are recommended for a reservation of LIHTCs based on the competitive scoring results; however, a project must receive a minimum of 60 points (50 points for age restricted projects) to be eligible to receive a LIHTC reservation. The non-profit set-aside is generally satisfied through the QAP scoring system. However, since the state's entire allocation authority is predicated by Section 42 on meeting the minimum 10% non-profit allocation, one or more non-profit projects may be selected over higher scoring applicants until the 10% allocation requirement is met.

When only partial LIHTCs are available for the next highest scoring project, the VIHFA retains the right to bypass that project, and either give LIHTCs to other projects lower in the scoring ranking which can effectively use the remaining LIHTC amount, or use the LIHTCs in a future year. If a partial allocation is offered, the VIHFA must be convinced that a project can be appropriately phased or restructured, that the project's feasibility is not conditioned upon receipt of a future reservation, and that the project can retain its scoring criteria ranking. The Applicant must demonstrate the ability to meet these criteria within 21 days of notification.

Upon completion of the application cycle, if tax credits are still available from any set-aside category (with the exception of the 10% non-profit set-aside) after the reservations are approved, the VIHFA may make tax credits remaining generally available for award to one or more eligible applications in another category or make additional supplemental reservations under the same program guidelines. The VIHFA may also carry forward any amount of tax credits to the next year. For projects returning for supplemental LIHTCs after having received a carryover allocation in an earlier year, the project must meet one or more of the following criteria:

- The project has incurred or faces substantial, unforeseen cost increases
- The project is subject to an unanticipated reduction in equity yield on the sale of the LIHTCs
- Supplemental LIHTCs would reduce the level of VIHFA capital subsidy funding.
- Supplemental LIHTCs would improve the project's financial feasibility but keep it consistent with the VIHFA's Multi-Family Underwriting Standards.

Allocations made under this circumstance can be up to 10% of the original allocation amount. The decision will be made by the VIHFA staff and approved by the Executive Director.

Notwithstanding the procedures outlined above for the reservation of credits based on scoring results, the VIHFA, as the allocating agency, may on occasion make an allocation which departs from the outlined parameters. Where the VIHFA makes any allocation of housing credits which deviates from the established priorities, selection criteria, or scoring rank as stated in this approved allocation plan, the VIHFA shall provide a written explanation of its decision/action; said justification shall be made available to the applicants via direct correspondence and to the general public via a posting on VIHFA's website.

B. Appeal Process

Applicants may appeal the VIHFA's decision, solely with regard to their application. Applicants must submit a formal written request for an appeal to the Executive Director within five (5) business days of notification that LIHTCs will not be awarded. The appeal request is considered by the VIHFA's Multi-Family Housing Committee, which shall review the claim and prepare an analysis and make a recommendation to the Authority's Executive Director relative to the response to be provided to the applicant. The Executive Director shall review all facts on which the decision not to award LIHTCs was based and the applicant's protest, and shall make a decision within thirty (30) calendar days after receipt of the protest to either uphold or overturn the original determination. The Contractor shall be notified in writing of the decision. The response shall indicate that the applicant may appeal to the Board of Directors if still unsatisfied.

C. Post Reservation Processing

1. Progress Phase

Within 120 days of notification of a reservation of LIHTCs the Applicant must complete all requirements listed in Appendix A; Progress Phase Requirements. Extensions to the deadline may be granted.

2. Allocation Phase

Projects that will not be placed in service by December 31 of the allocation year must complete the requirements for Carryover Allocation by November 1. The Carryover Allocation Requirements are outlined in detail in Appendix B. At project completion, the Applicant must submit the items listed in Appendix C - Final Allocation Requirements.

3. Cost Certifications

Cost certifications are required for both the carryover allocation (i.e. the 10% expenditure certification) and for a final allocation. The cost certifications must incorporate a professional CPA audit in accordance with generally accepted auditing standards and Section 42. The line items used in the certification must correspond with the VIHFA's application spreadsheet. The certification must include sources as well as uses of funds.

4. LIHTC Exchange

The VIHFA will permit exchanges of LIHTCs to be granted at the discretion of staff when all of the following apply:

- the appropriate amount of LIHTCs are available;
- the sponsor provides evidence of an inability to meet the placed-in-service, 10% expenditure, or other funding deadline;
- the situation results from litigation, municipal approval delays, or other unforeseeable circumstances beyond the sponsor's control; and
- the project continues to be financially feasible and meets the threshold criteria and other eligibility requirements in effect at the time the LIHTCs were originally awarded.

5. Supplemental Award

For projects returning for supplemental LIHTCs after having received a carryover allocation in an earlier year, the project must meet one or more of the following criteria:

- The project has incurred or faces substantial, unforeseen cost increases
- The project is subject to an unanticipated reduction in equity yield on the sale of the LIHTCs
- Supplemental LIHTCs would reduce the level of VIHFA capital subsidy funding.
- Supplemental LIHTCs would improve the project's financial feasibility but keep it consistent with the VIHFA's Multi-Family Underwriting Standards.

Allocations made under these circumstances can be up to 10% of the original allocation amount. The decision will be made by the VIHFA Board upon recommendation by the program staff.

6. Project Representations

Representations made about the project relating to ownership or management, or factors that are used in the selection and scoring criteria may not be changed without the express written permission of the VIHFA. LIHTC reservations may be rescinded if the project changes in a way that reduces the competitive score.

PROJECTS FINANCED BY TAX-EXEMPT BONDS

Projects financed with tax-exempt bonds may apply for tax credits at any time. Developments receiving tax-exempt financing for at least 50 percent of the aggregate basis of the property (including land) can receive an allocation from outside of the annual cap available for competitive allocation. Although the eligible basis of the development would qualify for credits without competing through the regular process, bond applicants must satisfy the requirements for allocation in accordance with the Qualified Allocation Plan.

Carryover allocations are not required for projects financed with tax-exempt bonds. The Authority issues a "determination letter" stating the estimated amount of tax credits for which the project is eligible just prior to the bond closing transactions, assuming all other LIHTC Program requirements have been or will be met.

FEES TO THE AUTHORITY

A. Application Fee

A non-refundable "Application Fee" of \$750.00 (\$600.00 for non-profits) must accompany all applications at the time of submission.

B. Reservation Fee

A non-refundable reservation fee equal to the lesser of 2% of the annual credit amount or \$2,500 must be submitted at the time of commitment by the VIHFA. The reservation fee is refundable **ONLY** in the event that VIHFA is unable to issue the Credit because it has reached its maximum authority.

C. Carryover Allocation Fee

A fee of 1.5 % of the credit carry-over amount will be due at the time of the carry-over allocation request submitted by a project that will not be placed in service by December 31 of the allocation year.

D. Tax –exempt Bond Projects

Tax-exempt bond funded projects are assessed a fee of \$3,500 at application and then a fee of 2.25% of the estimated amount of credits for which the project is eligible payable upon issuance of the determination letter.

LONG-TERM AFFORDABILITY COMPLIANCE

A. Recorded Affordability Commitment

Prior to issuance of final allocation, the owner of the LIHTC project must execute and record an Extended Use Agreement (EUA). The EUA sets forth the conditions wherein the owner and the project must comply with Section 42. The Applicant must show that the EUA has been recorded and has precedence over any permanent financing or other liens. The EUA shall remain in effect for a 30 year compliance period.

B. Right of First Refusal

Owners (except ownership entities ultimately controlled by a qualified non-profit or local housing authority) must sign a Right of First Refusal (ROFR) in favor of a qualified non-profit, local housing authority, or the VIHFA. The ROFR shall be executed prior to final allocation.

C. Compliance Monitoring

Pursuant to Treasury Regulation §1.42-5, the VIHFA is required to monitor project compliance with Section 42 and the EUA, and to notify the IRS when it becomes aware of any noncompliance. The VIHFA's monitoring responsibilities begin at the time the first building is placed in service. Additional information regarding compliance monitoring can be found in the Territory's LIHTC Compliance Manual.

In accordance with Section 42 (m)(1)(B)(iii) which provides that the state agency shall adopt a plan which outlines a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of Section 42 and in notifying the Internal Revenue Service of any noncompliance of which the agency becomes aware, the VIHFA has adopted the following procedures for the conduct of formal compliance monitoring of all tax credit properties:

All Tax Credit projects will be monitored by the Virgin Islands Housing Finance Authority, or its designated compliance monitoring contractor. Any LIHTC development which utilizes financing under the USDA Rural Development shall also be monitored for compliance in accordance with a Memo of Understanding entered into between the VIHFA and FmHA.

The VIHFA has implemented a monitoring fee of \$28.00 per unit per year. The compliance monitoring fee is due and payable by June of each calendar year after the project has been placed in service. The VIHFA reserves the right to make adjustments to annual monitoring fees due to increased monitoring requirements and/or costs.

MISCELLANEOUS AUTHORITY PROVISIONS

A. Waiver Authority

The VIHFA reserves the right to waive any of these Rules within the constraints of Section 42 on a case-by-case basis. Applicants or potential applicants must submit a written request for a waiver. A hearing will be scheduled by the VIHFA's Tax Credit Evaluation Committee within 45 days of the request. Upon a finding of good cause, the Tax Credit Evaluation Committee shall submit a recommendation for favorable approval of the waiver to the Executive Director. The Executive Director shall then submit the matter for action by the VIHFA's Board of Directors. A request for waiver of the rules can also be initiated by VIHFA staff, in which case, the Tax Credit Evaluation Committee shall submit a recommendation for favorable approval of the waiver to the Executive Director for consideration and submission for Board action.

B. Authority to Amend Regulatory Documents

The LIHTC staff is authorized to recommend for the Chief Financial Officer's approval amendments to project regulatory documents relative to the scope and delivery of services, age, and income targeting, including matters that may have been part of the original scoring evaluation of the project, in circumstances in which the staff determines that market conditions and or changes in public funding policies warrant such changes. The VIHFA's Executive Director, will report quarterly to the Board on all such amendments

C. Compliance with Federal, State and VIHFA Regulations

All projects receiving LIHTC allocations (including "out-of-cap" allocations) must comply with all relevant VIHFA, state and federal regulations, including but not limited to:

- Section 42
- Federal Uniform Physical Condition Standards (UPCS at CFR 5 et al.)
- Federal Fair Housing Act 42 USC §3601 et seq.
- Federal Section 504 Accessibility requirements, where applicable
- VIHFA Design and Construction Standards (HFA:111)
- VIHFA Underwriting and Development Policies for Multi-Family Bond Financing

D. References

Applicants are required to provide authorization so that references and credit can be checked.

Applicants may be required to submit IRS Form 8821 with their LIHTC applications, including separate forms for all general partners, to allow VIHFA access to IRS data on applicants and partners.

E. Warrant and Liability

The VIHFA is charged with allocating no more LIHTCs to any given project than are required to make the project economically feasible. This decision is made solely at the discretion of the VIHFA but does not represent or warrant to any applicant, developer, partner, investor, lender, or others that the project is feasible or risk free. The VIHFA's review of application documents in connection with this QAP is for its own purposes. The VIHFA makes no representations to the applicant or anyone else as to compliance with the Section 42, Treasury Regulations, or any other laws or regulations governing the LIHTC Program. To the extent any information in the QAP is inconsistent with Section 42, the provisions of Section 42 shall govern.

No Board member, officer or employee of the VIHFA shall be personally liable concerning any matters arising out of, or in relation to, the allocation of LIHTCs or compliance monitoring. The VIHFA's obligation to monitor for compliance does not make the VIHFA liable for an owner's noncompliance.

F. Amendments to the QAP

The VIHFA reserves the right to modify the QAP periodically, with the consent of the Governor of the U.S. Virgin Islands. The VIHFA may make technical clarifications or revisions to comply with changes in federal law at its sole discretion.

G. Board Role

Unless otherwise specified, the VIHFA's Board of Directors delegates LIHTC program administration responsibilities to the agency staff. The Reservation (or rejection) of LIHTCs shall be made by the VIHFA's Board of Directors).

H. Consistency with Section 42

To the extent any information in the QAP is inconsistent with Section 42, the provisions of Section 42 shall govern. This QAP is not intended to present all the rules and regulations of the LIHTC program. It is strongly recommended that applicants consult with competent legal and tax counsel.

I. Compliance with 3 V.I.C. Section 881

Pursuant to 3 V.I.C. Section 881, records and documents of Territory or any branch of government in such Territory or any department, board, council or committee of any branch of government are considered "public records". VIHFA is public corporation and autonomous instrumentality of the Government of the United States Virgin Islands; as such, documents and data created under this Program by the VIHFA or by an applicant for Low Income Housing Tax Credits are public records and may be subject to public inspection. Further, the public shall have the right to examine and to copy such records and the news media may publish such records unless some other provision of the Code expressly limits such right or requires such records to be kept secret or confidential. Certain documents and data, such as confidential financial information, may be considered non-public records and thus would not be subject to public inspection. The VIHFA shall comply with the provisions of 3 V.I.C. Section 881. The LIHTC applicant shall provide the VIHFA with all requests for information received and the VIHFA will determine how to comply with the law. Nevertheless, a

court may disagree with the VIHFA's decision, in which case the court's decision would prevail. The VIHFA shall not be liable to the LIHTC applicant or to any party for its decisions or a court's decisions related to the law relative to examination of public records.

APPROVAL BY CHIEF EXECUTIVE

The public was provided the opportunity to comment at public hearings held on January 27, 2015 on St. Thomas and January 28, 2015 on St. Croix concerning the most recent amendments to the Plan. The 2015 Qualified Allocation Plan was ratified by the Board of Directors of the Virgin Islands Housing Finance Authority on February 26, 2015.

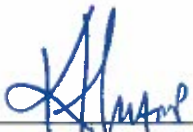
The initial Qualified Allocation Plan for the Territory was first approved on December 24, 1990. This most recent revision to the Plan was approved on March 9, 2015.

GOVERNOR'S APPROVAL

**U.S. VIRGIN ISLANDS 2015 QUALIFIED ALLOCATION PLAN
LOW INCOME HOUSING TAX CREDIT PROGRAM**

Pursuant to the requirement of the Internal Revenue Code of 1986, as amended, following public hearings conducted by the Virgin Islands Housing Finance Authority, I, Kenneth E. Mapp, Governor of the United States Virgin Islands, hereby approve the 2015 Qualified Allocation Plan for the Low Income Housing Tax Credit Program as developed and prepared by the Virgin Islands Housing Finance Authority.

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, Virgin Islands, this 9th day of March, A.D., 2015.



Kenneth E. Mapp
Governor

GLOSSARY

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

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

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

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

Applicant: The entity considered under Section III(C)(5).

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

Community Service Facility: Any building or portion of building that qualifies under Section 42(d)(4)(C)(iii) of the Code, Revenue Ruling 2003-77, and any Agency requirements for such facilities (which may be published as part of the Plan, an Appendix or separately).

Developer: Developer: Any individual or entity responsible for initiating and controlling the development process and ensuring that all, or any material portion of all, phases of the development process are accomplished.

Furthermore, the developer is the individual or entity identified as such in the Ownership Entity Agreement and any and all Development Fee Agreements.

Disabled household: A household is one in which the head, spouse, or sole member is a person with disabilities. Two or more persons with disabilities living together, and one or more persons with disabilities living with one or more live-in aides, also qualify as disabled households.

Displacement: The moving of a person or such person's personal property from their current residence.

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

Extended Use Agreement: An mandatory agreement between the Ownership Entity and the state housing agency which requires the entity to commit to maintain the property as low-income housing for at least 15 years after the close of the compliance period for such building.

Homeless Populations: People who are living in places not meant for habitation (such as streets, cars, parks), emergency shelters, or in transitional or temporary housing but originally came from places not meant for habitation or emergency shelters.

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

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

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

Net Square Footage: The outside to outside measurements of all finished areas that are heated and cooled (conditioned). Examples include hallways, community and office buildings, dwelling units, meeting rooms, sitting areas, recreation rooms, game rooms, etc. Breezeways, stairwells, gazebos and picnic shelters are examples of unconditioned outside structures that may not be used as net square footage.

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

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

Ownership Entity Agreement: A written, legally binding agreement describing the rights, duties and obligations of owners in the ownership entity.

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

Person with a Disability: Federal laws define a person with a disability as "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."

In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

Principal: Principal includes (1) all persons or entities who are or who will become partners or members of the ownership entity, (2) all persons or entities whose affiliates are or who will become partners or members of the ownership entity, (3) all persons or entities who directly or indirectly earn a portion of the development fee for development services with respect to a project and/or

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

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

Qualified Nonprofit Organization: An IRC §501(c)(3) or 501(c)(4) organization exempt from tax under §501(a) that is determined by the state agency as not being affiliated with or controlled by a for-profit organization, and one of the exempt purposes of the organization includes the fostering of low-income housing.

APPENDIX A

PROGRESS PHASE REQUIREMENTS

Projects must meet the requirements of the progress phase to be eligible for an allocation of tax credits. The documents listed below must be submitted to the VIHFA within 120 days of notification of a reservation of LIHTCs or 61 days prior to the deadline for carryover allocation (i.e. November 1st), whichever is sooner.

Progress requirement extensions may be granted at the sole discretion of the Authority. The tax credit reservation may be rescinded at the sole discretion of the Authority for not meeting the progress phase requirements or for a failure to meet the general criteria in the Carryover Allocation Requirements.

1. Environmental site assessment and related reports (lead, asbestos, historic, archeological, etc.) if required by the Authority
2. Appraisal (if required by the Authority)
3. Evidence of zoning/local approvals
4. Permanent financing letter of commitment
5. Construction financing letter of commitment
6. Equity investment letter of commitment
7. Construction period sources and uses (monthly)
8. Final plans and specifications
9. Evidence of continued site control
10. Soils and/or structural engineering report (if applicable)
11. Copy of the architect contract
12. For projects providing tenant services, an executed agreement binding on both parties
13. Cost estimates (or bids, if available) by schedule of value. Must comply with limits for contractor overhead and profit
14. Copy of contract for consultant services (if applicable)

**APPENDIX B
CARRYOVER ALLOCATION REQUIREMENTS**

The documents listed below must be submitted to the VIHFA along with the owner's request for a Carryover Allocation.

1. Any revised or updated pages from the application form related to changes in the project scope or cost, including complete updated budget
2. Evidence of limited partnership existence, including federal tax identification number, Certificate of Good Standing from the Office of the Lieutenant Governor or Secretary of State (in the case of a non-VI partnership) or copy of the Certificate of Limited Partnership bearing the seal of the appropriate Secretary of State.
3. A copy of the IRS letter assigning the EIN.

4. Copy of partnership agreement or offering summary (draft acceptable).
5. Evidence of continued site control, in the form of proof that the taxpayer that will be issued the credit is the owner of the land or depreciable real property that is expected to be part of the project. This may include:
 - a. recorded deed,
 - b. executed ground lease
 - c. copy of a recordable land contract or Option to Purchase

6. Copy of construction proposals (or bids) and executed construction contract. Include a copy of schedule of values showing contractor overhead and profit breakdown.

7. Any Progress Phase Requirement items for which VIHFA may have previously granted an extension.

Projects have one year from the date of allocation to incur more than 10% of the project's reasonably anticipated basis. The carryover cost certification, which shall be certified by an independent auditor, must be completed within 12 months of the "date of the Carryover Allocation," and must be forwarded to the Authority along with all the other required verifications.

APPENDIX C
FINAL ALLOCATION REQUIREMENTS

1. Updated application form with sources and uses corresponding to final cost certification
2. Final cost certification
3. Developer Certification of Costs
4. Developer Certification of Equity Proceeds
5. "As-Built" Architect Certification
6. Recorded Extended Use Agreement and evidence of its recordation in the records of the Recorder of Deeds
7. Executed partnership agreement with equity pay-in schedule
8. Final allocation fee
9. Copy of Certificates of Occupancy
10. Copy of deed including legal description of property
11. Tax credit monitoring fee
12. Certification of tax credit management designation and training
13. Placed in service date for each building
14. Construction contract meets 6-2-6 limits
15. Sign-off by the Authority construction analyst (responsibility of VIHFA)
16. 10% cost certification completed within one year of carryover allocation
17. Right of First Refusal to Nonprofit (required for for-profit developers only)
18. Election of gross rent floor

APPENDIX D
Mandatory Energy Conservation Requirements

- Projects must meet the minimum requirements for the design and construction of buildings for the effective use of and conservation of energy as required by the International Energy Conservation Code as set forth in Chapter 5 of Title 29, Virgin Islands Code.
- Projects must comply with the requirements for water heating in new developments or substantially modified developments as set forth in Section 1122, Chapter 5, Subchapter II of Title 29 Virgin Islands Code.
- In new construction and rehabilitation developments, all appliances, mechanical equipment, windows, ceiling fans, exhaust fans and exit signs shall be Energy Star® labelled when such equipment and appliances exist. Programmable thermostats shall be provided where appropriate. In addition, 100% of the permanent room light fixtures in the dwelling units shall be equipped with compact fluorescent, LED bulbs, or high efficiency fluorescent with electronic ballasts; and 100% of the community room and common area corridor and stair lighting shall be fluorescent with electronic ballasts or shall utilize compact fluorescent or LED bulbs.
- In preservation developments, existing refrigerators more than 5 years old shall be replaced with Energy Star® labelled type. Existing air conditioning condensing units, and through-wall air conditioners more than 5 years old shall be replaced with Energy Star® labelled type, when such equipment exists. Programmable thermostats shall be provided where appropriate. In addition, existing community room, common area corridor and stair lighting more than 10 years old shall be replaced with fluorescent fixtures with electronic ballasts or fixtures that utilize compact fluorescent or LED bulbs. Where windows are scheduled for replacement, replacement should be made with Energy Star® qualified products. The developer must certify that when existing equipment, appliances and products are replaced, they will be replaced with Energy Star® labelled equipment, when such equipment exists.
- All developers must certify that when existing equipment, appliances and products are replaced, they will be replaced with Energy Star® labelled equipment, when such equipment exists.