

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

*A minor portion of the proposal, pertaining to State of Arkansas tax credits, is proposed jointly with the Department of Finance and Administration.

MARK-UP
(ANNOTATED WITH DESCRIPTIONS OF SUBSTANTIVE CHANGES)

ARKANSAS DEVELOPMENT
FINANCE AUTHORITY

QUALIFIED ALLOCATION PLAN

The Arkansas Development Finance Authority (“ADFA” or the “Authority”) is charged with administering (a) federal low-income housing tax credits (the “LIHTCs”), (b) State of Arkansas low-income housing tax credits (the “State LIHTCs”), and (c) State of Arkansas Affordable Neighborhood Housing Tax Credits (the “ANHTCs”; together with the State LIHTCs and the LIHTCs, the “Tax Credits”). In accordance with federal law, and to describe and provide for the allocation and administration of the Tax Credits, the Authority has adopted this Qualified Allocation Plan (“QAP”).

The Authority will allocate the Tax Credits according to the provisions of this QAP, which includes the “Multifamily Housing Application Guidelines” attached hereto.

I. APPLICATION

An allocation of Tax Credits will be made only after the filing with the Authority of a Multifamily Housing Application (the “MFHA”) in the form promulgated by the Authority from time to time. To the extent not contained in this QAP, the MFHA may set forth requirements, instructions, clarifications, and definitions applicable to an application for an allocation of Tax Credits or to the Authority’s administration of the Tax Credit programs. The form of the MFHA and all other documents necessary for a complete application for Tax Credits are available on ADFA’s website. The terms and conditions of the MFHA will be incorporated into the carryover allocation documentation. ADFA also will use the MFHA at final cost certification to ensure continued compliance with all requirements.

Any material change to the original application, and all subsequent material changes (both for so long as the related multifamily housing development is governed by any provision or aspect of any Tax Credit program administered by ADFA), shall be submitted to ADFA in writing at least thirty (30) days before the desired effective date of the change. All changes shall be reviewed and approved by ADFA’s Staff Housing Review Committee, ADFA’s Board Housing Review Committee, and/or ADFA’s Board of Directors, as appropriate. Any such material change made without prior approval from ADFA will be null and void and may result in remedial action by ADFA, including but not limited to penalties on future applications or suspension from the Tax Credit programs. Applicants or Owners must submit a \$500.00 fee per change item, including but not limited to any change in unit size, unit or building configuration, project or building location, management company, development team member(s), or ownership interest.



II. LIMITS ON ALLOCATION OF CREDITS

The Internal Revenue Code (“IRC”) provides that “the [LIHTC] dollar amount allocated to a [multifamily housing] project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.” Accordingly, notwithstanding any provision of this QAP that may indicate or imply otherwise, LIHTCs will in each instance be limited to the amount the Authority determines necessary.

III. LIHTC ALLOCATION STANDARDS

A. Increase in Eligible Basis

To the extent the Authority determines that any building requires an increase in LIHTCs in order for such building to be financially feasible as part of a qualified low-income housing project, the eligible basis of such building will be increased by up to thirty percent (30%). The foregoing sentence does not apply to a building with respect to which LIHTCs are available in connection with a tax-exempt bond financing.

[We removed an obsolete reference to counties designated in the consolidated plan and a reference to RD-funded projects.]

B. Nonprofit Set-Aside

Not less than ten percent (10%) of the LIHTCs will be set aside for developments involving material participation by a qualified nonprofit organization, as defined in IRC § 501(c)(3) or § 501(c)(4), which is not affiliated with or controlled by a for-profit organization and has the fostering of low-income housing as one of its tax-exempt purposes.

IV. ALLOCATION OF THE STATE LIHTC

Ark. Code Ann. § 26-51-1702 provides that a taxpayer owning an interest in a low-income development qualifying for LIHTCs may be eligible for State LIHTCs equal to twenty percent (20%) of the allocated annual federal amount. The statute limits the total allocation of State LIHTCs to all recipients to \$250,000 in any taxable year. Recognizing the limited availability, ADFA will allocate State LIHTCs to developments whose applications score the highest and are in the areas described below, in this priority:

- A. Developments located in counties that are assigned to tier 4 or tier 3 (and tier 4 in case of a tie), of the four job-creation incentives tiers of the Arkansas Economic Development Commission.**
- B. Developments located within Qualified Census Tracts.**

- C. Developments in counties which have not received an award of (federal) LIHTCs in the last three (3) years.
- D. Developments anywhere in the State.

[We substituted AEDC tiers 3 and 4 for an obsolete reference to counties designated in the consolidated plan and removed the 10% nonprofit set-aside.]

The Authority will annually notify the Arkansas Department of Finance and Administration of those developments that have been allocated State LIHTCs and of any revocation of State LIHTCs.

V. ALLOCATION OF THE ANHTC

The Affordable Neighborhood Housing Tax Credit Act of 1997 (the "ANHTC Act"), codified at Ark. Code Ann. § 15-5-1301 *et seq.*, provides that any business firm engaging in the provision of affordable housing assistance activities in the State of Arkansas may be entitled to receive ANHTCs. "Affordable housing assistance activities" is defined to include any "money, real, or personal property expended or devoted to the construction or rehabilitation of affordable housing units developed by or in conjunction with any governmental unit or not-for-profit corporation." The ANHTC Act limits the total allocation of ANHTCs to \$750,000 in any taxable year.

ADFA and the Arkansas Department of Finance and Administration have determined that, in the best interest of affordable housing in Arkansas, "affordable housing assistance activities" must be devoted to those low-income housing developments which qualify for LIHTCs or tax-exempt bond programs for residential rental housing. Thus, any business firm seeking allocation of ANHTCs must do so in conjunction with an MFHA for LIHTCs or tax-exempt bonds to develop affordable housing units by or in conjunction with any governmental unit or not-for-profit corporation.

A proposal for ANHTCs must be submitted with the MFHA for LIHTCs. In its MFHA, the applicant will include a commitment from each business firm providing "affordable housing assistance activities" to the proposed low-income housing development. Each such commitment must:

- be in writing and executed by an authorized representative of the business firm;
- identify the governmental unit or not-for-profit corporation to which the "affordable housing assistance activities" are committed;
- describe in detail the nature of the "affordable housing assistance activities" to be provided, *i.e.*, whether money, real or personal property, and how it will be devoted to the construction or rehabilitation of affordable housing units.

The ANHTC Act limits the amount of tax credits allowable to a business firm to thirty percent (30%) of the total amount invested. If the affordable housing assistance activity is other than money, the business firm must provide an appraisal certifying the value of the property invested.

If the business firm commits its "affordable housing assistance activities" to a governmental unit, a not-for-profit organization, or a "neighborhood organization," as defined in the ANHTC Act, which is not the applicant on the MFHA, the applicant must submit with its MFHA the following from such governmental unit, not-for-profit organization or "neighborhood organization":

- Organizational documents including: i) Arkansas Articles of Incorporation; and ii) Tax Exempt Status Determination Letter from the Internal Revenue Service;
- A written statement describing its relationship with the applicant, *i.e.*, any ownership interest in the applicant or other relationship with the applicant;
- A written statement describing in detail its commitment of the "affordable housing assistance activities" received from each business firm to the construction or rehabilitation of affordable housing units within the development proposed.

For each proposal of "affordable housing assistance activities" submitted with the MFHA, the applicant must certify in writing that it will expend or devote the "affordable housing assistance activities" committed to the construction or rehabilitation of affordable housing units within the development.

The Authority will allocate ANHTCs to qualifying developments in the priority described above (under the heading "IV. ALLOCATION OF THE STATE LIHTC") for allocation of the State LIHTCs.

[We substituted the preferences stated for the State LIHTC's for the previous ANHTC priorities.]

The Authority will reserve and allocate ANHTCs in conjunction with its reservation and allocation or issuance of LIHTCs. With its issuance of IRS Forms 8609 for LIHTCs, the Authority will issue a Certificate of Allocation certifying the amount of ANHTCs allocated to the business firm entitled to such allocation. The Authority will annually provide the Arkansas Department of Finance and Administration with a copy of each Certificate of Allocation for ANHTCs allocated that year and of any revocation of ANHTCs.

VI. COMPLIANCE

Applicants shall comply with all applicable federal, state, and local laws, including ADFA's Compliance Monitoring Policies and Procedures Manual for the Low-Income Housing Tax Credit Program or any successor provisions.

The owner of a development receiving Tax Credits will be required to prepare and submit to the Authority, no later than February 1 of each year following the first taxable year of the owner's credit period, an Owner's Certificate of Continuing Program Compliance and the LIHTC Compliance Monitoring Status Report.

Frequent or consistent non-compliance of applicant, owner, or any member of the development team in regard to the operation of any development may result in points reduction in the scoring of applications and/or suspension of the applicant or development team member from applying for Tax Credits for a set term of time and/or compliance with conditions.

Applications indicating the average income minimum set-aside may not propose

- any unrestricted, market-rate units (employee units are allowed), or
- a disproportionate distribution of designations among bedroom types (e.g., the average area median income among three-bedroom units cannot exceed 60%).

ADFA may waive the foregoing, if necessary, for a rehabilitation application to better fit the household incomes of in-place tenants. For projects with more than one building, owners must select that each building is part of a multiple building set-aside on the Form 8609.

[We inserted the foregoing new rules relating to the average-income set-aside.]

VII. CLOSING

The ADFA Board of Directors has delegated to the President of ADFA the authority to implement closing requirements that are financially prudent for each development awarded ADFA resources. Recipients will be notified of closing requirements as promptly as possible after notice of award(s). The standard list of information and documents required prior to closing is available on the ADFA website. The President has the authority and discretion to add, modify, or waive requirements.

VIII. CLARIFICATIONS

An allocation of Tax Credits in no way represents or warrants to any sponsor, investor, lender, or anyone else that the project is, in fact, feasible or in compliance with the IRC, Treasury regulations, or any other state or federal laws or regulations governing Tax Credits. The applicant and owner of the development are responsible for understanding and following all applicable tax law requirements for the development.

No director, officer, agent, or employee of ADFA shall be personally liable concerning any matters arising out of, or in relation to, the award or allocation of Tax Credits, the rejection of any MFHA for Tax Credits, the award or lack of award of any other ADFA-administered resource whether federal or state in origin, the closing of any awarded funds or lack of closing, or the failure of a development to comply with federal, state, or local laws, regulations, or other governing instruments, or the recapture of any credits or funds from any development, or the failure of any

development to remain financially feasible, or the failure of any development to meet federal, state, or local deadlines.

ADFA may amend, make technical changes, and/or adopt rules ancillary to this QAP as necessary to prudently administer ADFA-administered funds or to comply with state or federal law. ADFA may require all things necessary or convenient to carry out its purposes, pursuant to Ark. Code Ann. § 15-5-207(b)(20)(A) and Ark. Code Ann. § 15-5-207(b)(26).

Applicants may not contact ADFA staff in any manner regarding any application after submission of the application and during the ADFA review period, unless ADFA staff has initiated contact. The ADFA review period concludes when the ADFA Board of Directors approves successful applicants. Violations of this policy could result in a downgrade to the final scoring, rejection of the application from consideration for an award of Tax Credits, or suspension or disqualification from ADFA programs.

ADFA may suspend for good cause any entity based on its incapacity to effectively administer, manage, and/or utilize resources. Any appeal of such suspension shall be presented in writing to ADFA for possible consideration. The appeal shall provide written justification. The ADFA Board Housing Review Committee will decide whether to allow any appeal of suspension and will set the time, date, terms, and requirements associated with any appeal process.

Adopted by the Board of Directors of the Arkansas Development Finance Authority on this the _____ day of _____, 2020.

By: _____
Stan Green, Chairman

ATTEST:

Bryan Scoggins, President/Secretary



ARKANSAS DEVELOPMENT FINANCE AUTHORITY MULTIFAMILY HOUSING APPLICATION GUIDELINES

INTRODUCTION AND PURPOSE

The Multifamily Housing Application (“Application” or “MFHA”) can be used for multiple housing funding sources available from ADFA.

I. APPLICATION DEFINITIONS, PROCEDURES, REQUIREMENTS, AND REVIEW.

A. DEFINITIONS.

“**Application**” or “**MFHA**” means a MS Excel file of the Application and all attachments and Adobe PDF version of the Application and all attachments that ADFA will use interchangeably in reviewing, underwriting, and scoring.

“**Application Requirement(s)**” means the items listed in Section I(C) of these Guidelines that must be included in a MFHA by the Application Deadline to be considered a complete Application, and “**Financial Feasibility**” as defined below.

“**Area of Opportunity Index**” means the scoring computation for all census tracts that is intended to promote selection of developments that will create new housing supply in areas where population is growing, jobs are plentiful, and housing is comparatively scarce.

[We deleted the definition of “Assisted Living” because the QAP as drafted does not permit assisted living projects. We deleted the definition of “Credit Limit Per-Unit” as unneeded.]

“**DCR**” or “**Debt Coverage Ratio**” means the ratio of a development’s net operating income (rental income less operating expenses and reserve payments) to total debt service obligations.

“**Development Team**” means the applicant, accountant, architect, attorney, developer, co-developer, consultant, contractor, and nonprofit sponsor.

“**Financial Feasibility**” is an Application Requirement consisting of the following criteria by which an Application will be underwritten and determined to be feasible: adequate reserve funding; fifteen-year pro-forma based on operating incomes and expenses; reasonable increases in operating incomes and expenses; developer fee standard; general contractor requirements; and meeting a minimum debt coverage ratio.

“**Green Space**” is defined as an open area of land or body of water that is protected through conservation or preservation for the sake of recreational, ecological, environmental, aesthetic, or agricultural interests.

[We deleted definitions of “Guidelines” and “Housing Credit” as unneeded.]

“Pedestrian Trails” are non-motorized public rights-of-way that are regularly maintained for use by bicyclists, walkers, and runners for transportation and recreation. They can be pathways within an urban area or rural paths through the countryside.

“Person with a Disability” means a 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 impairment.

[We substituted the foregoing definition for one of “Disability.”]

“Public Transportation” means buses, trains, subways, and other forms of local transportation that charge set fares, run on fixed routes, and are available to the public.

[We deleted a definition of “QAP” as unneeded.]

“Review and Response Period” means the period after ADFA staff have underwritten Applications and notified all applicants of any outstanding deficiencies. Applicants will have ten (10) business days from electronic notification to contact staff, clarify, and/or provide explanatory documentation.

[We deleted definitions of “Rural Area” and “Scattered Site” as unneeded.]

“Supportive (Disabled) Housing” is housing intended for the use of persons with a disability as defined by federal law, which contains all the physical design, construction, and on-site service provision components adequate to meet the needs of the disabled population targeted. Any market study submitted in support of an Application for housing intended for the use of persons with disabilities shall address the housing needs of the targeted disabled population in the primary market area. The applicant shall also include a marketing plan designed to reach the targeted disabled population. The applicant must submit its statement that the supportive services offered to the disabled population served will be optional as defined in 26 C.F.R § 1.42-11(b).

B. APPLICATION PROCESS FOR COMPETITIVE ALLOCATION.

The closing deadline for submitting an Application to ADFA for Tax Credits is as follows:

**APPLICATION DEADLINE IS 4:30 P.M.,
THE FIRST MONDAY OF MARCH
 (“Application Deadline”)**

Failure to deliver all of the following required materials by the Application Deadline will result in an application being ineligible:

1. The MFHA as a saved MS Excel file, in the same format as the ADFA MFHA is posted, via email to:
Multifamily.Housing@arkansas.gov
2. An Adobe.PDF copy of the Application and all exhibits, bookmarked, to ADFA on a USB flash drive. If any of the Application Requirements are not applicable, the applicant must mark “N/A” on the respective tab insert and provide an explanation why.

ADFA will score applications based solely upon the information and documentation submitted by the Application Deadline and follow the Dates for Review of Applications and Reservation Process outlined below.

Dates for Review of Applications and Reservation Process

<u>Application Deadline</u>	First Monday of March – 4:30 p.m.
<u>Review and Response Period</u> ADFA will review Applications and notify applicants of items that require explanation or clarification. Applicants will have ten (10) business days to respond. Applicants will have the full ten (10) business days to respond if that time period extends past the Review and Response Period Deadline.	Ends on the Second Friday of June — 4:30 p.m.
<u>Scoring Notification</u> Applicants notified of Application score or failure to submit all Application Requirements.	Third Friday of June— 4:30 p.m.
<u>Scoring Response Period</u> Applicants may provide ADFA with an explanation of claimed mistakes or inaccuracies in the Application score. ADFA will notify applicants within ten (10) business days of the Scoring Response Period only if there is a change in score.	Fourth Friday of June – 4:30 p.m.
ADFA approves successful applicants for a reservation of LIHTCs.	Third Thursday of July

ADFA may modify the dates set forth above if necessary.

C. **REQUIREMENTS FOR A COMPLETE APPLICATION.**

The following Application Requirements (the “Requirements”) must be submitted by the Application Deadline. Failure to submit all the following will terminate the Application from consideration.

1. **Application Fee.** The Application fee check should be made payable to “Arkansas Development Finance Authority”.
2. **Financial Commitment Letters.** All sources of financial commitments, including but not limited to the following, as applicable:
 - a. Commitment letter(s) from any non-ADFA permanent lender(s), including units of local government. The letter(s) shall be dated within six (6) months prior to the Application Deadline and state that a formal Application for permanent financing is under serious consideration. The letter must contain:
 - i. the amount of the loan;
 - ii. amortization period;
 - iii. annual loan payment; and
 - iv. interest rate.

[We clarified that a letter from ADFA is not required.]

- b. A commitment letter, dated within six (6) months prior to the Application Deadline, from any Tax Credit syndicator or investor.
 - i. Because of the limited quantity of State LIHTCs and ANHTCs, any applicant requesting either must provide alternate financing.
 - ii. The commitment letter for Tax Credits must include, at a minimum, the following information:
 - Price per Tax Credit;
 - Amount of Tax Credits to be acquired;
 - Total amount of equity to be paid to the development and the proposed schedule of equity payments;
 - Amount of rehabilitation expenditures per-unit required by investor or syndicator, if applicable;
 - Debt coverage ratio required; and
 - Reserve amount required.

Applications must evidence compliance with the investor’s requirements, if stricter than ADFA’s requirement.

ADFA may contact the applicant to request supplemental or revised financial commitments.

3. Appraisal. All Applications for new construction must include a certified land appraisal dated within one (1) year prior to the Application Deadline.

All rehabilitation Applications must include an appraisal, dated within one (1) year prior to the Application Deadline, which supports the purchase price of the development. The appraisal must separately identify

- a. the appraised value for the buildings in the development and the value of the land;
- b. the value of any federal rental subsidy enhancing the value of the buildings (the applicant must submit a commitment letter from the federal agency stating the subsidy has been awarded).

The purchase price must be equal to or less than the appraised value of the land, and buildings if applicable.

4. Site Control Information. The applicant must have site control and provide evidence one of the following forms:

- Executed purchase option contract;
 - Executed long-term land lease or option on a long-term 99-year lease; or
 - Evidence of executed assignment and assumption agreement with executed purchase option agreement, contract, or land lease agreement attached.
- a. The Option, Contract, or Agreement must be in the name of an existing entity or person that is in a position of control over the applicant and give such entity or person the exclusive right to purchase or lease the property for a period not to expire prior to December 6 of the year of the MFHA. The option or contract cannot be subject to extension fees in order for the contract to reach the required expiration date.

If one of the above applies, the applicant must also submit a copy of the recorded deed evidencing the Seller's or Lessor's ownership.

- b. The applicant will sign a Verification of Arm's-Length Transactions. A statement in the market study or appraisal will not suffice. If the seller is an entity, the applicant must disclose the identity of all members, partners, or shareholders.
- c. For all acquisition/rehabilitation developments, the Application must include documentation for each building claiming acquisition credits that:
 - i. Satisfies the "purchase requirement" of IRC Section 42(d)(2)(B)(i) (submission of Purchase Option, Contract, or Agreement);

- ii. Provides either the seller's certification that the 10-year hold rule in IRC Section 42(d)(2)(B)(ii) has been satisfied for each building or the requirement is not applicable under IRC Section 42; and
- iii. Provides the applicant's certification that each building was not previously placed in service by the applicant or by any person related to the applicant in accordance with IRC Section 42(d)(2)(B)(iii).

5. Zoning and Planning Commission Information. A signed letter, dated within six (6) months prior to the Application Deadline, from the appropriate zoning authority (including a planning commission, if applicable) stating the proposed use of the property and that the property is properly zoned for such proposed use.

6. Independent Market Study. Applications must include a comprehensive market study conducted by a disinterested party on ADFA's "Market Analyst Firms – Approved List" dated within six (6) months prior to the Application Deadline. The analyst will acknowledge in the study that it is being done for ADFA's use and benefit. ADFA will reject an application if the market study shows:

- a. inadequate demand for any unit size proposed, based upon the targeted income group for that unit size,
- b. a capture rate of more than 20% for any unit,
- c. the proposed development will detrimentally affect other affordable housing in the area,
- d. the proposed location is or nearly is saturated, or
- e. any other negative impact.

[We changed the section to require the applicant to provide the market study, and to require capture rates not exceeding 20%.]

7. Tenant Income Audit. All Applications with rehabilitation projects must include a complete, detailed Tenant Income Audit that identifies all existing tenant households and their incomes. The audit must separately identify those tenant households whose income exceeds applicable income limits.

8. Articles of Incorporation, IRS documentation, and Nonprofit Determination Statement. To be considered for the 10% nonprofit set-aside the development must:

- a. involve a qualified nonprofit organization that owns an interest in the development, materially participates, is not affiliated with or controlled by a for-profit organization, and has as one of its exempt purposes the fostering of low-income housing;
- b. comply with Internal Revenue Service Revenue Procedure 96-32 in that at least seventy-five percent (75%) of the total number of residential units are designated for low-income residents.

9. Capital Needs Assessment. All rehabilitation developments must include a capital needs assessment conducted by a firm on ADFA's "Capital Needs Assessment Firms –

Approved List" dated within six (6) months prior to the Application Deadline. The assessment must involve an interview with the maintenance personnel and an analysis of the following:

- a. Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utility lines;
- b. Structural systems, both substructure and superstructure, including exterior walls, balconies and stairways, exterior doors and windows, roofing system and drainage, including but not limited to termite, mold, and water damage;
- c. Interiors, including unit and common area finishes (carpeting, vinyl flooring, tile flooring, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors;
- d. Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection, and elevators; and
- e. Buildings, facilities, common use areas, residential units, parking areas, curbs, ramps, and railings to ensure compliance with applicable federal, state, and local laws regarding accessibility for persons with disabilities.

The report must include a physical inspection of the interior and exterior of each unit and each building and must specifically identify the scope of work and estimated costs necessary to:

- Rehabilitate all components examined and analyzed in the development to a new or "like-new" condition;
- Correct all deficiencies in order for the development to comply with applicable federal, state, and local laws and requirements regarding accessibility for persons with disabilities; and
- Correct all deficiencies to ensure compliance with ADFA's Multifamily Minimum Design Standards (other than as may be waived).

All rehabilitation applicants must submit a statement that the scope of rehabilitation will include all capital needs set forth in the Capital Needs Assessment.

10. Financial Feasibility and Rental Rate Impact. ADFA will underwrite all Applications through the competitive allocation cycle using the same criteria regardless of project type or location based on the following criteria:

- a. the extent to which the development's sources of funds equals the development's uses of funds;
- b. the extent to which any proposed developer fee deferral can be paid within 15 years;
- c. the reasonableness of total development costs;
- d. repayment terms (including interest rates, total debt and loan terms) for all proposed debt; and

- e. the reasonableness of the expenses, incomes, and increases in both show in the submitted pro-forma.

ADFA may incorporate terms and conditions required by the equity investor(s) and lender(s) into its underwriting of an Application.

Applications for 9% LIHTCs must demonstrate a Rental Rate Impact score of at least 40 (see the Points Criteria for more information). The benefits of the lower LIHTC rents resulting from the Rental Rate Impact requirement should be spread equitably across all LIHTC units in the development, taking into account unit sizes and income levels. The net LIHTC rent specified in the Application for a unit may be increased from time to time but at no time during the compliance period (i.e., the period of 15 taxable years beginning with the first taxable year of the development's credit period) may the monthly rental rate for such unit exceed the amount then determined by increasing, on a compound interest basis, the net LIHTC rent specified in the Application for such unit by 2.75% on each January 1, beginning on the first January 1 following the award of LIHTCs.

[We made an RRI score of 40 a threshold requirement, required equitable distribution of RRI benefits, and stated in the QAP a rule regarding rent increases heretofore stated only in a staff memo.]

11. Operating Deficit Reserve and Replacement Reserve Funds. The total development budget must include:

- a. Operating Deficit Reserve Fund equal to the greater of:
 - i. Six (6) months of: projected annual operating expenses, annual debt service payments, and annual replacement reserve deposits;
- OR
- ii. The amount of operating reserves required by the applicant's equity investor(s) or lender(s).

[We required the same six-month operating reserve for rehab projects with 100% PBRA as for other projects.]

- b. The funding and maintenance of a Replacement Reserve Fund equal to the greater of:
 - i. \$250 per unit per year;
- OR
- ii. The amount of replacement reserves required by the applicant's equity investor(s) or lender(s).

These amounts must be evidenced in the final cost certification.

The Replacement Reserve shall be maintained, and yearly deposits shall be made equal to the above requirement, for the entirety of the affordability period. The applicant shall identify the name of the financial institution where each reserve will be held. A copy of the December bank statement for the Operating Reserve account and the Replacement Reserve account must be submitted by the Owner to ADFA's Compliance Department by February 1 of each year. If the December bank statements do not evidence a year-end summary of each month's balance, copies of bank statements for all twelve (12) months for the Operating Reserve and the Replacement Reserve must be submitted to ADFA's Compliance Department by February 1 of each year. The ending balance of each reserve account must total the amounts required under (a) and (b) above, whether the accounts are replenished from operating income or by the general partner of owner or member, shareholder or partner of general partner, as ADFA deems appropriate.

ADFA must approve all withdrawals from the operating deficit reserves, in writing, prior to withdrawal. Owner must submit with the withdrawal request supporting documentation evidencing the need for the funds, written evidence that insufficient funds exist in the primary operating account, and a written guaranty by the general partner of owner or member, shareholder or partner of general partner, as ADFA deems appropriate, will deposit sufficient funds so that at the end of the year the total in the Operating Deficit Reserve account equal the amount required under (a) as modified herein for Rural Development developments. ADFA will require notification from owner on any Replacement Reserve withdrawal and notice of approval from development's lender or investor as applicable.

Rural Development-funded developments:

In the event that Rural Development ("RD") requires initial operating capital in an amount less than ADFA's Operating Deficit Reserve, ADFA will credit the amount of reserves required by Rural Development to the total amount of reserves required under (a) and (b) above, but in no event shall the **total** amount of reserves be less than that required under (a) above. (For example, if under (a) \$50,000 is required and under (b), \$10,000, and Rural Development requires \$20,000 of initial operating capital, the owner must fund a separate Operating Deficit Reserve account, withdrawals from which must be approved by ADFA, in the amount of \$30,000. Using the same amounts except that RD requires a \$70,000 initial operating capital, the owner must fund a separate \$50,000 Operating Deficit Reserve.)

A copy of the December bank statement for the Operating Reserve account and the Replacement Reserve account must be submitted by the Owner to ADFA's Compliance Department by February 1 of each year. If the December bank statements do not evidence a year-end summary of each month's balance, copies of bank statements for all twelve (12) months, for the Operating Reserve and the Replacement Reserve, shall be submitted to ADFA by February 1 of each year. The ending balance of the Operating Deficit Reserve account plus the development's ending cash balance per RD Form 3560-7, plus the balance of RD's initial operating capital reserve must total the amounts required under (a) and (b); thus, general partner of owner or member, shareholder, or partner of general partner of

owner may have to deposit funds into the separate Operating Deficit Reserve account to total this amount.

Owner shall not make any withdrawals from the Operating Deficit Reserve account without providing the following items to ADFA:

- supporting documentation evidencing the need for the funds,
- written evidence from RD that the use of reserve funds is not an eligible expense from RD initial operating capital reserve account or that insufficient funds exist in the account, and
- a written guaranty by the owner or general partner of owner, as ADFA deems appropriate, that sufficient funds will be deposited so that at the end of the year the total funds in the Operating Deficit Reserve account equal the amount required under (a) as modified herein for RD developments.

12. Developer Fee.

- a. The developer's fee, which includes the developer fee plus developer's overhead and profit plus consultant's fee, plus any interest payable on a deferred fee, cannot exceed ten percent (10%) of the "Net Development Costs".

[We lowered the threshold limit on developer's fee from 15% to 10%.]

"Net Development Costs" is the total uses of funds, less syndication-related costs, developer's fee and development reserves.

The amount of eligible basis attributed to the acquisition of existing property must be equal to or greater than the percentage that the total acquisition costs of existing property is to the total development costs.

The applicant must disclose in its Application or an attachment all persons and entities that will receive any portion of the developer fee, including all members, partners, and shareholders of such entities. The applicant must notify ADFA in writing of any proposed change in the person(s) or entity/entities.

- b. Developer Fee – Deferral. ADFA will underwrite any portion of the developer's fee that is deferred and included as a source of funds will be ensure payment by the earlier of the end of the 15-year compliance period or the time frame required by the Applicant's equity investor or lender(s). The amount shown as deferred in the application may not exceed fifty percent (50%) of the maximum fee allowed.

[We imposed a limit on the portion of the developer's fee that may be deferred.]

13. General Requirements, Contractor's Overhead, and Contractor's Profit. The amount allocated to General Requirements cannot exceed seven percent (7%) of its

construction hard costs. General requirements include items that are required for the contractor to provide for the specific project including, but are not limited to: field supervision; field engineering such as field office, sheds, toilets, and phone; performance and payment or latent defects bonds; building permits; site security; temporary utilities; property insurance; and cleaning or rubbish removal. Such items should not be accounted as separate line items in the development budget.

ADFA will limit the

- Contractor's Profit to ten percent (10%), and
- Contractor's Overhead to four percent (4%)

of the development's construction hard costs plus general requirements. ADFA may determine whether costs included in the contractor's overhead and contractor's profit calculations are appropriate and reasonable.

The applicant must disclose in its Application or an attachment all persons and entities, whether or not affiliated with the applicant, that will receive any portion of the contractor's profit, including all members, partners and shareholders of such entities. The applicant must notify ADFA in writing of any proposed change in the person(s) or entity/entities that shall receive any portion of the contractor's profit.

14. Per-unit Credit and Cost Limits.

- a. ADFA will limit the amount of 9% LIHTCs allocated to each unit to the following:

Single-Family Detached	Limit Per-Unit	All other New Construction	Limit Per-Unit	Acquisition / Rehabilitation	Limit Per-Unit
0-1 Bedrooms	\$14,500	0-1 Bedrooms	\$13,000	0-1 Bedrooms	\$9,000
2-Bedrooms	\$15,000	2-Bedrooms	\$13,500	2-Bedrooms	\$10,000
3-Bedrooms	\$16,200	3-Bedrooms	\$13,750	3-Bedrooms	\$12,750
4-Bedrooms	\$17,500	4-Bedrooms	\$13,850	4-Bedrooms	\$13,250

- b. ADFA will limit the per-unit total development cost of developments receiving 4% LIHTCs in connection with tax-exempt bond financing to \$200,000.

[We added a per-unit cost cap for 4% LIHTC/bonds projects.]

ADFA has the discretion to determine reasonableness of all costs and may deny an Application based upon the unreasonableness of costs regardless of whether such costs are within the limits stated herein. Upon request by ADFA, applicants may provide justification and supporting documentation of costs.

15. Minimum Debt Coverage Ratio. The application must demonstrate a minimum debt coverage ratio that is the greater of: 1.15 or the minimum debt coverage ratio required by any lender or investor providing a financial commitment during the compliance period.

RD developments shall use the income, expenses and reserves as approved in the most recently executed Form 3560-7. The applicable minimum debt coverage ratio must be evidenced by the MFHA and supporting documentation.

16. Rehabilitation Standard. Rehabilitation hard costs (labor and materials) on any rehabilitation development, including those with tax-exempt bonds, will be no less than \$15,000 per-unit and no less than twenty percent (20%) of the development's total costs.

17. Rental Assistance Contract. All applicants proposing a development that has been approved for project-based rental assistance must submit with its Application a copy of the executed rental assistance contract and if applicable Form RD 3560-7 or HUD-92458; if a rental assistance contract has not been executed at time of Application submission, a commitment letter from the agency providing the rental assistance must be submitted. All such applicants must also submit documentation of the most recently approved amount of rent to be charged or a letter from HUD granting a waiver and supported by the market study and/or appraisal.

If the waiver or approval is not obtained by the carryover allocation Application Deadline, ADFA may terminate the LIHTC award.

18. Fair Housing Training. The applicant must include with its Application a certification evidencing completion of four (4) hours of fair housing training by a principal of the following members of the development team, or manager dealing with day-to-day operations, as appropriate under the circumstances: Owner; Developer; Management Company; Consultant, if applicable; and Architect. A certification is valid for the purpose herein for two (2) years from date of certification. Each development team member should attend the class most relevant to his or her development team role.

[We changed the training requirement from 5 hours to 4 hours.]

19. Identification of Applicant and Identity of Interest. The Application must identify all members or partners, as applicable, of the applicant entity. If any such members, partners, or shareholders are entities, the Application must identify all members, partners, or shareholders of such entities. None of the parties identified may be affiliated with the project's architect or civil engineer.

[We prohibited applicant – architect/engineer affiliations.]

20. Assisted Living Developments. Assisted living developments are ineligible.

[We deleted provision for assisted living developments.]

21. Narrative Description of the Development. A detailed narrative description that includes the type of development; development site and surrounding area; types of financing; tenants served; bedroom mix; percentage of low-income units; involvement of nonprofit support service organizations; project amenities; energy efficiency; rehabilitation work to be performed, if applicable; and any other relevant descriptive information.

22. Letter to Public Housing Authority (“PHA”) for use by Persons on Waiting List. The applicant shall provide written documentation to the local PHA of its intent to develop a low-income multifamily rental development.

23. Utility Allowance Calculation. The applicant must submit documentation from the utility entity selected which list the allowance for each type utility usage applicable for each type of unit. The documentation must be signed and dated by an authorized representative within six (6) months prior to the Application Deadline, unless the Application is for acquisition/rehabilitation of a HUD or RD development, then the current executed HUD or RD rent schedule forms are acceptable.

24. Letter of Participation, Licenses, and Certification. Applications must include:

- a. A cover letter describing the participation of the members or partners in the development.
- b. The General Contractor/Builder, Architect, and Engineer must be licensed to conduct business in Arkansas.
- c. Certification of Good Standing from the Arkansas Secretary of State for the applicant, developer, and management company.

25. Capacity and Identity of Interest. ADFA may disqualify an Application based on its determination that any development team member does not have the capacity to undertake performance, information provided in the Criminal Background and Disclosure Form, or documentation supporting instances of nonperformance, including:

- a. Failure to meet and maintain minimum property standards;
- b. Failure to meet and maintain any material aspect of a development as represented in an Application;
- c. Excessive late or incomplete reports to ADFA;
- d. Failure to obtain prior approvals from ADFA;
- e. Having been involved in uncured financing defaults, foreclosures, or placement on HUD’s list of debarred contractors;
- f. Events of material uncorrected noncompliance with any Federal or State assisted housing programs within the prior seven (7) year period;
- g. Failure to comply with ADFA’s request for information or documentation on any development funded or administered by ADFA; or
- h. Removal as a general partner.

Each member of the development team as listed in the Development Team tab of the MFHA must complete the "Conflict of Interest Acknowledgment" and "Contract and Grant Disclosure and Certification Form".

As appropriate for each entity listed on the Development list and the Limited Partnership, the Application must include an organizational chart for each member of the Development Team listing the entity, and all applicable stockholders, directors, officers, members, managers, trusts, trustees, etc. including full names and addresses and percentage of ownership and voting rights.

26. Site Plan, ALTA/NSPS Survey, and Topographic Survey. A site plan depicting the location and orientation of each existing or proposed building and all paved areas throughout the development site, including sidewalks and parking areas.

For new construction applications, an ALTA/NSPS survey and topographic survey of the proposed development site signed and dated within six (6) months of the Application Deadline by a person authorized to perform such surveys by the Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors. While an ALTA/NSPS survey is not an application requirement for a rehabilitation project, such a survey may be required by ADFA post-award.

[For rehabilitation projects, we deleted the application requirement for an ALTA/NSPS survey and the requirement for a topographic survey.]

27. Tax Abatement. ADFA will not consider the effect of lowered, abated, or deferred real estate taxes in its underwriting of the proposed development without adequate documentation.

28. Multifamily Housing Minimum Design Standards. Construction of the development must be in accordance with ADFA's "Multifamily Housing Minimum Design Standards" (as well as all applicable local, state, and national building codes). The applicant's architect must complete and execute the "Multifamily Housing Minimum Design Standards Checklist".

Applicants may request a waiver for rehabilitation proposals by submitting the following:

- a. Certification by the design architect or licensed engineer that the standard concerned is impractical or impossible;
- b. Description of alternative design which will achieve the benefit of the required standard; or certification by the design architect or licensed engineer that no alternative design can be undertaken to achieve the benefit of the required standard due to structural constraints; and
- c. Statement by applicant that it will implement any alternative identified by the design architect or licensed engineer.

[We added impracticality (to impossibility) as a ground for a MDS waiver.]

ADFA will require a certification from the design architect or licensed engineer confirming compliance with ADFA's "Multifamily Housing Minimum Design Standards" prior the issuing IRS Forms 8609.

29. Allocated Credit Limitation for Competitive Round. A Development Team member, whether an individual or entity, may not have an economic interest, as defined below, in more than 30% of the total amount of 9% LIHTCs that ADFA has available for allocation in that given year or as otherwise limited by the ADFA Board of Directors.

This section is not intended to prohibit any independent third-party professionals from rendering services on behalf of multiple proposed developments. However, this section will apply to such service provider if the service provider has an economic interest as defined below in addition to its provision of services to the proposed development.

ADFA may determine when this rule regarding economic interest should apply in circumstances other than those specifically referenced above. ADFA may impose additional special conditions and limitations upon Applications, applicants and development team members.

The applicant must identify all of its members, partners and shareholders, contractor, architect, management company, consultant, and developer of the proposed development. The Application must identify all development team members, including all members, partners, and shareholders of any identified members, partners or shareholders. .

No changes can be made in the composition of the development team without ADFA's written approval. The applicant must identify all members, partners, and shareholders of the proposed replacement member, including all members, partners, and shareholders. All policies regarding economic interest shall apply to the proposed replacement member. If the proposed replacement would cause a development team member or related person or entity to violate the Allocated Credit Limitation, such proposed replacement will be denied, or if the economic interest becomes known to ADFA at a later time, ADFA may terminate the reservation, terminate the carryover allocation, deny issuance of credits via IRS Form(s) 8609, suspend all responsible persons and entities from the LIHTC Program, or take other action reasonable under the circumstances.

An economic interest exists in the context of an Application and development when:

- a. There is any financial interest in the development, including but not limited to the lending of funds to a development team member or the owner of the development for the construction or operation of the development, the guaranteeing of a note on behalf of a development team member or owner of the development, or the making of any other guarantee that is contingent upon the construction or performance of the development; and/or
- b. A development team member also has an economic interest in a development if the ownership entity or any portion thereof should be stated on the financial

statements of the development team member or related entity according to Generally Accepted Accounting Standards.

Economic interest shall not include a contractual relationship whereby a development team member provides services that are within its ordinary course of business and receives reasonable payment for such services. For example, an architect contracting with a development owner to prepare plans for the rehabilitation of a development in exchange for a contractual sum shall not constitute an economic interest. Or, for example, an independent contractor providing a payment or performance bond or guarantee and warranty pertaining to their construction work and budget as outlined in an AIA A series contract shall not constitute an economic interest.

For the purposes stated herein, "development team member" shall include but not be limited to all persons and entities stated in the Application as members of the development team.

The applicant must disclose all identities of interest that exist among all persons or entities acting as a development team member, whether or not expressly named as a development team member.

The Application must include a verified statement from all development team members disclosing all economic interests in the development. ADFA may deem a person or entity as a development team member.

30. Multiple Phase Developments. ADFA will not award LIHTCs to multiple phases of the same overall development submitted in a funding cycle absent approval of a waiver request submitted prior to the Application submission deadline.

A senior development adjacent to a family development are not phases of the same development.

II. PROCEDURES FOR AWARDING POINTS AND RANKING APPLICATIONS.

A. POINTS CRITERIA.

Each Application will be awarded, or penalized points based upon the Points Criteria outlined below.

Points Criteria

1	Location Area of Opportunity Index (“AOI”) calculated for the development’s Census Tract. AOI is based on unemployment rate, vacancy rate and population growth. The AOI is calculated for every Census Tract and ranges 0-10. Points will be rounded accordingly: 0-.4 receive 0 points, .5-1.4 receive 1 point, etc. The AOI of each Census Tract can be found on ADFA’s website.	Up to 10 Points
2	Tenant Needs 4 points to developments with 100% of the units in the development designed, equipped, and set-aside for elderly defined at 42 USC 3607(b)(2) and Ark. Code Ann. §16-123-307(d)(1) OR 4 points to developments targeting low-income families (or individuals with children) with a minimum of 20% of the units having three or more bedrooms. (If an applicant chooses 100% elderly, the applicant will <u>not</u> receive points for three or more bedrooms) OR 4 points for Supportive Housing for disabled persons (as defined in section I(A) above) with a minimum of 30% of units for such special needs’ tenants. The applicant must submit a statement: <ul style="list-style-type: none">• Describing the design and construction of the development that will meet the needs of the disabled population served;• Describing the on-site support services that will meet the needs of the disabled population served; and• Stating the supportive services will be optional to the disabled population served (see 26 C.F.R. §1.42-11(b)).	4 Points

	<p>The proposed service provider must submit a statement describing:</p> <ul style="list-style-type: none"> • The disabled population to be served; • The needs of the disabled population to be served; and • The service to be provided to the disabled population served, including the frequency of provision. <p>[We deleted points for assisted living projects.]</p>	
3	<p>Rehabilitation Point Deduction 12 Points deducted if the proposed development involves the acquisition and/or rehabilitation of existing structures that were allocated LIHTC within 20 years or less from the date of the Application Deadline.</p>	-12 Points
4	<p>Profit and Overhead 1 point for general requirements not exceeding 4% of construction hard costs 1 point for contractor profit not exceeding 8% of construction hard costs plus general requirements 1 point for contractor's overhead not exceeding 2% of construction hard costs plus general requirements 1 point in addition for meeting all three of the above</p> <p>[We substituted these points for points for a public housing waiting list.]</p>	Up to 4 Points
5	<p>Historic Developments 4 points for proposed development involving rehabilitation of structures that are individually listed in the National Register of Historic Places ("NRHP") or have been determined to contribute to a Registered Historic District. The applicant must submit a letter dated within six (6) months from the date of the Application Deadline and must verify the structures are individually listed in the NRHP or have been determined to contribute to a Registered Historic District.</p> <p>[We deleted scoring categories for lowered developer's fee and inclusion of market-rate units.]</p>	4 Points
6	<p>Rental Rate Impact Up to 20 points for percentage advantage of net LIHTC rents below the allowable rents for a 60% AMI unit of comparable multifamily rental developments in the area.</p> <p>ADFA will calculate the percentage advantage by the average percentage relative to the maximum allowable rents for a 60% AMI unit</p>	Up to 20 Points

	<p>for each type of unit (<i>i.e. one-bedroom units, two-bedroom units, etc.</i>) using the following formula:</p> <p>Percentage Advantage = 1.000 (One) minus (Proposed LIHTC Rent / 60% AMI Rent Limit)</p> <p>ADFA will calculate the overall Percentage Advantage using a weighted average of the Percentage Advantage for each type of unit.</p> <p>The range of points is:</p> <p>20 for 59.1% to 60.0%</p> <p>19 for 58.1% to 59.0%</p> <p>18 for 57.1% to 58.0%</p> <p>17 for 56.1% to 57.0%</p> <p>16 for 55.1% to 56.0%</p> <p>15 for 54.1% to 55.0%</p> <p>14 for 53.1% to 54.0%</p> <p>13 for 52.1% to 53.0%</p> <p>12 for 51.1% to 52.0%</p> <p>11 for 50.1% to 51.0%</p> <p>10 for 49.1% to 50.0%</p> <p>9 for 48.1% to 49.0%</p> <p>8 for 47.1% to 48.0%</p> <p>7 for 46.1% to 47.0%</p> <p>6 for 45.1% to 46.0%</p> <p>5 for 44.1% to 45.0%</p> <p>4 for 43.1% to 44.0%</p> <p>3 for 42.1% to 43.0%</p> <p>2 for 41.1% to 42.0%</p> <p>1 for 40.1% to 41.0%</p> <p>[We substituted a 40% threshold requirement and up to 20 points for the existing 100-point measure.]</p>	
7	<p>Site Selection</p> <p>The site location will be evaluated for accessibility and proximity to services appropriate to the type of housing proposed and residential character of the surrounding area.</p> <p>The Application shall identify the name, driving directions, and distance from the development to the site amenities listed below.</p> <p>3 points for the following site amenities located within two (2) miles of the site. Site amenities must be appropriate for the population served. Distances will be measured by the shortest available driving distance from the development's address to the applicable address of the site</p>	<p>Up to 24 Points</p>

	<p>amenity as calculated by Google Maps. Points will only be given for the site amenities listed below:</p> <ul style="list-style-type: none"> a. Grocery Store or Supermarket; b. Pharmacy or Drug Store; c. School, daycare or education center (<i>cannot be awarded if 100% elderly only property</i>); d. Public Park or Green Space (does not include school grounds); e. Book lending public library; f. Daily operated senior center or facility offering daily services for seniors (<i>can be awarded only if 100% elderly property</i>); g. Hospital, health clinic, or medical doctor's office (medical doctor's office must have a general practitioner.); h. Public transportation; and i. Access to Pedestrian Trails. <p>Site amenities presented for scoring shall be referenced in the Market Study map. All site amenities presented for scoring must list a contact person and a verifiable phone number in the Application.</p> <p>3 points if at least four residential units are within 0.5 miles of the site boundary and occupied as of the application deadline.</p> <p>[We increased the maximum score in this category from 16 to 24 points, required amenities to be within 2 rather than 3 miles, and added residential character of the area to the criteria.]</p> <hr/> <p>Points will be deducted for site selection. There is not a limit on the total number of points that can be deducted.</p> <p>3 points will be deducted if incompatible uses are adjacent to the site (adjacent is defined as nearby, but not necessarily touching).</p> <p>2 Points will be deducted if incompatible uses are within 0.3 miles (approximately 500 yards) of the site. Distances are measured by lineal distance or "as the crow flies." The following list of incompatible uses is not exclusive:</p> <ul style="list-style-type: none"> a. Junk Yard, Public Dump, or Solid Waste Disposal; b. Pig Farm or Chicken Farm; c. Prison or Jail; and d. Airport. 	
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	Scoring considerations will also include, among other things, site suitability regarding topography (grade, low-lying area, flood plain, or wetlands).	
8	<p>Total Development Costs Per Unit An application will receive the scores below based on the entirety of uses listed divided by the number of units (including for employees). 15 points for <\$150,000 13 points for \$150,000 to \$159,999 10 points for \$160,000 to \$169,999 8 points for \$170,000 to \$179,999 6 points for \$180,000 to \$189,999 3 points for \$190,000 to \$199,999 0 points for >\$200,000</p> <p>[We substituted cost points for capture-rate points.]</p>	Up to 15 Points
9	<p>Serves Lowest Income Group Possible 7 points for developments with units dedicated to serve households whose incomes are 30% or less of the area median income. Rents must be restricted accordingly. The number of units must be at least 5% of the total number of residential rental units in the development.</p> <p>Applications for developments that will receive, or do receive and is anticipated to continue to receive, project based rental assistance for more than 75% of units are not eligible for these points. These units cannot be used to satisfy low HOME requirements.</p> <p>The applicant must submit a signed statement with the Application stating the number of units to be set-aside for the extremely low-income tenants and such set-aside must be evidenced in the rent schedules of the Application.</p>	7 Points
10	<p>4 Points for a signed statement which indicates the number of years the period of affordability will be extended. To receive points, the period of affordability must be at minimum 35 years.</p> <p>OR</p> <p>4 Points for eventual tenant ownership pursuant to 26 U.S.C. §42(i)(7). The applicant must submit the proposed right of first refusal contract to be offered for eventual tenant ownership.</p>	Up to 4 Points

11	<p>Community Revitalization Plan 4 points are available to a development that is located in a Qualified Census Tract if it contributes to a concerted community revitalization plan.</p> <p>The applicant must submit with its Application a copy of the Community Revitalization Plan approved by the appropriate planning authority and such Plan must specifically address a need for affordable housing. Please highlight specific sections of the Revitalization Plan that reference affordable housing.</p>	4 Points
12	<p>Past Performance Point Deduction ADFA will reduce an Application's score up to but no more than twenty-five (25) points if the applicant, developer or application preparer failed to meet program or ADFA requirements on a prior ADFA development. These points will be assessed and evaluated on a round-by-round basis, and applicants will be notified at Scoring Notification Period when a situation necessitating the assessment of these points occurs.</p> <p>Some examples that will result in point reduction include:</p> <ol style="list-style-type: none"> Failure to follow through with representations made at the time of Application on previous developments where points were awarded that resulted in the project being funded; Repeated and documented poor response or slow response in providing follow-up documentation or clarification requests made by ADFA staff; Failure to meet one or multiple deadlines on previous developments – including Form 8609/Cost Certification Packages; Failure to submit Final Cost Certification with Total Development Costs at or below the amount represented in the awarded application; and Failure to submit inspection reports and draw requests on monthly basis during construction. 	Up to -25 Points
13	<p>Non-Compliance Point Deduction ADFA will reduce an Application's score up to but no more than twenty (20) points for the calculated Non-Compliance Percentage for each Application. The Non-Compliance Percentage shall be based upon any history of non-compliance of existing or past LIHTC developments of which the following parties were or are part of the Development Team or otherwise involved in the operation of the development as determined by ADFA:</p> <ol style="list-style-type: none"> Members, partners or shareholders of the applicant; General Partner of the applicant; 	Up to -20 Points

	<p>c. Members, partners, or shareholders of the General Partner of the applicant; or</p> <p>d. Members, partners, or shareholders of members of the applicant.</p> <p>If the applicant or management company has not previously participated in ADFA's LIHTC Program, the applicant and/or management company must request a report from any other housing finance agency where the applicant, management company, or any related entity has previous LIHTC experience that lists each instance issuance of IRS Form 8823, any report of non-compliance and UPCS inspection standards within the last three (3) years.</p> <p>The Non-Compliance Percentage is calculated during the Review and Response Period and evidenced by issuance of IRS Form 8823, Report of Non-Compliance, and UPCS inspection standards. The Non-Compliance Percentage is the percentage of non-compliant units over total units reviewed. The Non-Compliance Percentage of all ADFA properties reviewed within a 3-year period of time will be averaged and given an average Non-Compliance Percentage. Owners are subject to point deductions based on the average Non-Compliance Percentage as follows:</p> <table><tr><th><u>Average Non-Compliance Percentage</u></th><th><u>Negative Points</u></th></tr><tr><td>51% or more</td><td>20</td></tr><tr><td>41-50%</td><td>15</td></tr><tr><td>31-40%</td><td>10</td></tr><tr><td>16-30%</td><td>5</td></tr><tr><td>0-15</td><td>0</td></tr></table>	<u>Average Non-Compliance Percentage</u>	<u>Negative Points</u>	51% or more	20	41-50%	15	31-40%	10	16-30%	5	0-15	0	
<u>Average Non-Compliance Percentage</u>	<u>Negative Points</u>													
51% or more	20													
41-50%	15													
31-40%	10													
16-30%	5													
0-15	0													

Total Points Possible:

B. RANKING AND AWARD DETERMINATION.

ADFA will rank each Application according to the score awarded. In the event there is a tie in scoring for two or more Applications, the following are tie-breaker criteria ADFA would likely use, but not exclusively of others:

1. maximum number of affordable rental units produced; or
2. the Application which requested the least amount of LIHTCs per-unit; or
3. the Application that has the least amount of aggregate participation by any one owner or development team member. Aggregate participation is defined as the total of all Applications recommended for funding in the current round; or
4. equitable geographic distribution of awarded LIHTCs.

ADFA may disapprove any Application for an allocation of LIHTCs, regardless of the ranking under the priorities and point ranking outlined above.

III. EQUAL OPPORTUNITY.

ADFA requires that occupancy of all housing financed or otherwise assisted by ADFA be open to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. Contractors and subcontractors engaged in the construction or rehabilitation of such housing must provide equal opportunity for employment without discrimination as to race, color, religion, sex, handicap, familial status, or national origin.

IV. ADFA FEES.

All fees are non-refundable. ADFA will not refund overpayments.

A. APPLICATION FEE.

Applications will include the fees (determined from the list below) in the form of a check payable to the Arkansas Development Finance Authority.

Competitive Applications

1.0% of requested annual amount of LIHTCs

Bond Applications

\$10,000 per development site

B. RESERVATION FEE.

A reservation fee of \$150.00 per low-income unit will be required to secure the reservation of LIHTCs.

C. ISSUANCE OF IRS FORM 8609 FEE.

A fee equal to \$150.00 per low-income unit will be required at the time the owner submits the final development cost certification requesting issuance of IRS Form 8609(s).

[We equalized fees for for-profit and nonprofit applicants and deleted the requirement to submit payment for the market study.]

D. MONITORING FEE.

A monitoring fee equal to ten percent (10%) of the total annual LIHTC allocation will be required at the time the owner submits the final development cost certification requesting issuance of IRS Forms 8609(s).

V. FINANCING WITH TAX-EXEMPT BONDS AND LIHTCS.

Developments financed with tax-exempt bonds must apply to receive LIHTCs not allocated as part of the State's annual LIHTC ceiling, and meet all applicable requirements, of the QAP.

In addition, each development financed with tax-exempt bonds must comply with ADFA's Guidelines for Reserving Volume Cap for Tax-Exempt Private Activity Bonds for Residential Rental Housing and ADFA's Rules and Regulations Implementing the Law on the Allocation of the State Volume Cap for Private Activity Bonds Pursuant to Act 1004 of 2001 in effect at the time of the filing of the Application.

CERTIFICATION ON FOLLOWING PAGE.

CERTIFICATION MUST BE TURNED IN WITH APPLICATION.

CERTIFICATION

By submitting this MFHA, I agree to:

1. Participate in, provide information for, and cooperate with ADFA in the creation and maintenance of a web-based housing registry of ADFA-assisted housing developments.
2. Consent to ADFA obtaining information regarding the applicant's, or any member of the applicant's development team or any other member, partner or shareholder of an entity development team member or having any interest, indirectly or directly, in a development team member, from the housing finance agencies in all states in which the applicant and development team members as defined herein have applied for credits, or otherwise participated in the development of a housing development.

I hereby certify that I have read and am aware of all terms, conditions, and requirements of the above-referenced instructions, and I am aware of all consequences should I fail to complete the MFHA Application as set forth in these instructions.

Date

Applicant

Date

Developer

Date

Application Preparer

ARKANSAS DEVELOPMENT **FINANCE AUTHORITY**

QUALIFIED ALLOCATION PLAN

The Arkansas Development Finance Authority (“ADFA” or the “Authority”) is charged with administering (a) federal low-income housing tax credits (the “LIHTCs”), (b) State of Arkansas low-income housing tax credits (the “State LIHTCs”), and (c) State of Arkansas Affordable Neighborhood Housing Tax Credits (the “ANHTCs”; together with the State LIHTCs and the LIHTCs, the “Tax Credits”). In accordance with federal law, and to describe and provide for the allocation and administration of the Tax Credits, the Authority has adopted this Qualified Allocation Plan (“QAP”).

The Authority will allocate the Tax Credits according to the provisions of this QAP, which includes the “Multifamily Housing Application Guidelines” attached hereto.

I. APPLICATION

An allocation of Tax Credits will be made only after the filing with the Authority of a Multifamily Housing Application (the “MFHA”) in the form promulgated by the Authority from time to time. To the extent not contained in this QAP, the MFHA may set forth requirements, instructions, clarifications, and definitions applicable to an application for an allocation of Tax Credits or to the Authority’s administration of the Tax Credit programs. The form of the MFHA and all other documents necessary for a complete application for Tax Credits are available on ADFA’s website. The terms and conditions of the MFHA will be incorporated into the carryover allocation documentation. ADFA also will use the MFHA at final cost certification to ensure continued compliance with all requirements.

Any material change to the original application, and all subsequent material changes (both for so long as the related multifamily housing development is governed by any provision or aspect of any Tax Credit program administered by ADFA), shall be submitted to ADFA in writing at least thirty (30) days before the desired effective date of the change. All changes shall be reviewed and approved by ADFA’s Staff Housing Review Committee, ADFA’s Board Housing Review Committee, and/or ADFA’s Board of Directors, as appropriate. Any such material change made without prior approval from ADFA will be null and void and may result in remedial action by ADFA, including but not limited to penalties on future applications or suspension from the Tax Credit programs. Applicants or Owners must submit a \$500.00 fee per change item, including but not limited to any change in unit size, unit or building configuration, project or building location, management company, development team member(s), or ownership interest.

II. LIMITS ON ALLOCATION OF CREDITS

The Internal Revenue Code (“IRC”) provides that “the [LIHTC] dollar amount allocated to a [multifamily housing] project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified



low-income housing project throughout the credit period.” Accordingly, notwithstanding any provision of this QAP that may indicate or imply otherwise, LIHTCs will in each instance be limited to the amount the Authority determines necessary.

III. LIHTC ALLOCATION STANDARDS

A. Increase in Eligible Basis

To the extent the Authority determines that any building requires an increase in LIHTCs in order for such building to be financially feasible as part of a qualified low-income housing project, the eligible basis of such building will be increased by up to thirty percent (30%). The foregoing sentence does not apply to a building with respect to which LIHTCs are available in connection with a tax-exempt bond financing.

B. Nonprofit Set-Aside

Not less than ten percent (10%) of the LIHTCs will be set aside for developments involving material participation by a qualified nonprofit organization, as defined in IRC § 501(c)(3) or § 501(c)(4), which is not affiliated with or controlled by a for-profit organization and has the fostering of low-income housing as one of its tax-exempt purposes.

IV. ALLOCATION OF THE STATE LIHTC

Ark. Code Ann. § 26-51-1702 provides that a taxpayer owning an interest in a low-income development qualifying for LIHTCs may be eligible for State LIHTCs equal to twenty percent (20%) of the allocated annual federal amount. The statute limits the total allocation of State LIHTCs to all recipients to \$250,000 in any taxable year. Recognizing the limited availability, ADFA will allocate State LIHTCs to developments whose applications score the highest and are in the areas described below, in this priority:

- A. Developments located in counties that are assigned to tier 4 or tier 3 (and tier 4 in case of a tie), of the four job-creation incentives tiers of the Arkansas Economic Development Commission.
- B. Developments located within Qualified Census Tracts.
- C. Developments in counties which have not received an award of (federal) LIHTCs in the last three (3) years.
- D. Developments anywhere in the State.

The Authority will annually notify the Arkansas Department of Finance and Administration of those developments that have been allocated State LIHTCs and of any revocation of State LIHTCs.

V. ALLOCATION OF THE ANHTC

The Affordable Neighborhood Housing Tax Credit Act of 1997 (the "ANHTC Act"), codified at Ark. Code Ann. § 15-5-1301 *et seq.*, provides that any business firm engaging in the provision of affordable housing assistance activities in the State of Arkansas may be entitled to receive ANHTCs. "Affordable housing assistance activities" is defined to include any "money, real, or personal property expended or devoted to the construction or rehabilitation of affordable housing units developed by or in conjunction with any governmental unit or not-for-profit corporation." The ANHTC Act limits the total allocation of ANHTCs to \$750,000 in any taxable year.

ADFA and the Arkansas Department of Finance and Administration have determined that, in the best interest of affordable housing in Arkansas, "affordable housing assistance activities" must be devoted to those low-income housing developments which qualify for LIHTCs or tax-exempt bond programs for residential rental housing. Thus, any business firm seeking allocation of ANHTCs must do so in conjunction with an MFHA for LIHTCs or tax-exempt bonds to develop affordable housing units by or in conjunction with any governmental unit or not-for-profit corporation.

A proposal for ANHTCs must be submitted with the MFHA for LIHTCs. In its MFHA, the applicant will include a commitment from each business firm providing "affordable housing assistance activities" to the proposed low-income housing development. Each such commitment must:

- be in writing and executed by an authorized representative of the business firm;
- identify the governmental unit or not-for-profit corporation to which the "affordable housing assistance activities" are committed;
- describe in detail the nature of the "affordable housing assistance activities" to be provided, *i.e.*, whether money, real or personal property, and how it will be devoted to the construction or rehabilitation of affordable housing units.

The ANHTC Act limits the amount of tax credits allowable to a business firm to thirty percent (30%) of the total amount invested. If the affordable housing assistance activity is other than money, the business firm must provide an appraisal certifying the value of the property invested.

If the business firm commits its "affordable housing assistance activities" to a governmental unit, a not-for-profit organization, or a "neighborhood organization," as defined in the ANHTC Act, which is not the applicant on the MFHA, the applicant must submit with its MFHA the following from such governmental unit, not-for-profit organization or "neighborhood organization":

- Organizational documents including: i) Arkansas Articles of Incorporation; and ii) Tax Exempt Status Determination Letter from the Internal Revenue Service;

- A written statement describing its relationship with the applicant, *i.e.*, any ownership interest in the applicant or other relationship with the applicant;
- A written statement describing in detail its commitment of the "affordable housing assistance activities" received from each business firm to the construction or rehabilitation of affordable housing units within the development proposed.

For each proposal of "affordable housing assistance activities" submitted with the MFHA, the applicant must certify in writing that it will expend or devote the "affordable housing assistance activities" committed to the construction or rehabilitation of affordable housing units within the development.

The Authority will allocate ANHTCs to qualifying developments in the priority described above (under the heading "IV. ALLOCATION OF THE STATE LIHTC") for allocation of the State LIHTCs.

The Authority will reserve and allocate ANHTCs in conjunction with its reservation and allocation or issuance of LIHTCs. With its issuance of IRS Forms 8609 for LIHTCs, the Authority will issue a Certificate of Allocation certifying the amount of ANHTCs allocated to the business firm entitled to such allocation. The Authority will annually provide the Arkansas Department of Finance and Administration with a copy of each Certificate of Allocation for ANHTCs allocated that year and of any revocation of ANHTCs.

VI. COMPLIANCE

Applicants shall comply with all applicable federal, state, and local laws, including ADFA's Compliance Monitoring Policies and Procedures Manual for the Low-Income Housing Tax Credit Program or any successor provisions.

The owner of a development receiving Tax Credits will be required to prepare and submit to the Authority, no later than February 1 of each year following the first taxable year of the owner's credit period, an Owner's Certificate of Continuing Program Compliance and the LIHTC Compliance Monitoring Status Report.

Frequent or consistent non-compliance of applicant, owner, or any member of the development team in regard to the operation of any development may result in points reduction in the scoring of applications and/or suspension of the applicant or development team member from applying for Tax Credits for a set term of time and/or compliance with conditions.

Applications indicating the average income minimum set-aside may not propose

- any unrestricted, market-rate units (employee units are allowed), or
- a disproportionate distribution of designations among bedroom types (e.g., the average area median income among three-bedroom units cannot exceed 60%).

ADFA may waive the foregoing, if necessary, for a rehabilitation application to better fit the household incomes of in-place tenants. For projects with more than one building, owners must select that each building is part of a multiple building set-aside on the Form 8609.

VII. CLOSING

The ADFA Board of Directors has delegated to the President of ADFA the authority to implement closing requirements that are financially prudent for each development awarded ADFA resources. Recipients will be notified of closing requirements as promptly as possible after notice of award(s). The standard list of information and documents required prior to closing is available on the ADFA website. The President has the authority and discretion to add, modify, or waive requirements.

VIII. CLARIFICATIONS

An allocation of Tax Credits in no way represents or warrants to any sponsor, investor, lender, or anyone else that the project is, in fact, feasible or in compliance with the IRC, Treasury regulations, or any other state or federal laws or regulations governing Tax Credits. The applicant and owner of the development are responsible for understanding and following all applicable tax law requirements for the development.

No director, officer, agent, or employee of ADFA shall be personally liable concerning any matters arising out of, or in relation to, the award or allocation of Tax Credits, the rejection of any MFHA for Tax Credits, the award or lack of award of any other ADFA-administered resource whether federal or state in origin, the closing of any awarded funds or lack of closing, or the failure of a development to comply with federal, state, or local laws, regulations, or other governing instruments, or the recapture of any credits or funds from any development, or the failure of any development to remain financially feasible, or the failure of any development to meet federal, state, or local deadlines.

ADFA may amend, make technical changes, and/or adopt rules ancillary to this QAP as necessary to prudently administer ADFA-administered funds or to comply with state or federal law. ADFA may require all things necessary or convenient to carry out its purposes, pursuant to Ark. Code Ann. § 15-5-207(b)(20)(A) and Ark. Code Ann. § 15-5-207(b)(26).

Applicants may not contact ADFA staff in any manner regarding any application after submission of the application and during the ADFA review period, unless ADFA staff has initiated contact. The ADFA review period concludes when the ADFA Board of Directors approves successful applicants. Violations of this policy could result in a downgrade to the final scoring, rejection of the application from consideration for an award of Tax Credits, or suspension or disqualification from ADFA programs.

ADFA may suspend for good cause any entity based on its incapacity to effectively administer, manage, and/or utilize resources. Any appeal of such suspension shall be presented in writing to ADFA for possible consideration. The appeal shall provide written justification. The

ADFA Board Housing Review Committee will decide whether to allow any appeal of suspension and will set the time, date, terms, and requirements associated with any appeal process.

Adopted by the Board of Directors of the Arkansas Development Finance Authority on this the _____ day of _____, 2020.

By: _____
Stan Green, Chairman

ATTEST:

Bryan Scoggins, President/Secretary



ARKANSAS DEVELOPMENT FINANCE AUTHORITY MULTIFAMILY HOUSING APPLICATION GUIDELINES

INTRODUCTION AND PURPOSE

The Multifamily Housing Application (“Application” or “MFHA”) can be used for multiple housing funding sources available from ADFA.

I. APPLICATION DEFINITIONS, PROCEDURES, REQUIREMENTS, AND REVIEW.

A. DEFINITIONS.

“Application” or “MFHA” means a MS Excel file of the Application and all attachments and Adobe PDF version of the Application and all attachments that ADFA will use interchangeably in reviewing, underwriting, and scoring.

“Application Requirement(s)” means the items listed in Section I(C) of these Guidelines that must be included in a MFHA by the Application Deadline to be considered a complete Application, and “Financial Feasibility” as defined below.

“Area of Opportunity Index” means the scoring computation for all census tracts that is intended to promote selection of developments that will create new housing supply in areas where population is growing, jobs are plentiful, and housing is comparatively scarce.

“DCR” or “Debt Coverage Ratio” means the ratio of a development’s net operating income (rental income less operating expenses and reserve payments) to total debt service obligations.

“Development Team” means the applicant, accountant, architect, attorney, developer, co-developer, consultant, contractor, and nonprofit sponsor.

“Financial Feasibility” is an Application Requirement consisting of the following criteria by which an Application will be underwritten and determined to be feasible: adequate reserve funding; fifteen-year pro-forma based on operating incomes and expenses; reasonable increases in operating incomes and expenses; developer fee standard; general contractor requirements; and meeting a minimum debt coverage ratio.

“Green Space” is defined as an open area of land or body of water that is protected through conservation or preservation for the sake of recreational, ecological, environmental, aesthetic, or agricultural interests.

“Pedestrian Trails” are non-motorized public rights-of-way that are regularly maintained for use by bicyclists, walkers, and runners for transportation and recreation. They can be pathways within an urban area or rural paths through the countryside.

“Person with a Disability” means a 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 impairment.

“Public Transportation” means buses, trains, subways, and other forms of local transportation that charge set fares, run on fixed routes, and are available to the public.

“Review and Response Period” means the period after ADFA staff have underwritten Applications and notified all applicants of any outstanding deficiencies. Applicants will have ten (10) business days from electronic notification to contact staff, clarify, and/or provide explanatory documentation.

“Supportive (Disabled) Housing” is housing intended for the use of persons with a disability as defined by federal law, which contains all the physical design, construction, and on-site service provision components adequate to meet the needs of the disabled population targeted. Any market study submitted in support of an Application for housing intended for the use of persons with disabilities shall address the housing needs of the targeted disabled population in the primary market area. The applicant shall also include a marketing plan designed to reach the targeted disabled population. The applicant must submit its statement that the supportive services offered to the disabled population served will be optional as defined in 26 C.F.R § 1.42-11(b).

B. APPLICATION PROCESS FOR COMPETITIVE ALLOCATION.

The closing deadline for submitting an Application to ADFA for Tax Credits is as follows:

**APPLICATION DEADLINE IS 4:30 P.M.,
THE FIRST MONDAY OF MARCH
 (“Application Deadline”)**

Failure to deliver all of the following required materials by the Application Deadline will result in an application being ineligible:

1. The MFHA as a saved MS Excel file, in the same format as the ADFA MFHA is posted, via email to:
Multifamily.Housing@arkansas.gov
2. An Adobe.PDF copy of the Application and all exhibits, bookmarked, to ADFA on a USB flash drive. If any of the Application Requirements are not applicable, the applicant must mark “N/A” on the respective tab insert and provide an explanation why.

ADFA will score applications based solely upon the information and documentation submitted by the Application Deadline and follow the Dates for Review of Applications and Reservation Process outlined below.

Dates for Review of Applications and Reservation Process

<u>Application Deadline</u>	First Monday of March – 4:30 p.m.
<u>Review and Response Period</u> ADFA will review Applications and notify applicants of items that require explanation or clarification. Applicants will have ten (10) business days to respond. Applicants will have the full ten (10) business days to respond if that time period extends past the Review and Response Period Deadline.	Ends on the Second Friday of June — 4:30 p.m.
<u>Scoring Notification</u> Applicants notified of Application score or failure to submit all Application Requirements.	Third Friday of June— 4:30 p.m.
<u>Scoring Response Period</u> Applicants may provide ADFA with an explanation of claimed mistakes or inaccuracies in the Application score. ADFA will notify applicants within ten (10) business days of the Scoring Response Period only if there is a change in score.	Fourth Friday of June – 4:30 p.m.
ADFA approves successful applicants for a reservation of LIHTCs.	Third Thursday of July

ADFA may modify the dates set forth above if necessary.

C. REQUIREMENTS FOR A COMPLETE APPLICATION.

The following Application Requirements (the “Requirements”) must be submitted by the Application Deadline. Failure to submit all the following will terminate the Application from consideration.

1. **Application Fee.** The Application fee check should be made payable to “Arkansas Development Finance Authority”.

2. Financial Commitment Letters. All sources of financial commitments, including but not limited to the following, as applicable:

- a. Commitment letter(s) from any non-ADFA permanent lender(s), including units of local government. The letter(s) shall be dated within six (6) months prior to the Application Deadline and state that a formal Application for permanent financing is under serious consideration. The letter must contain:
 - i. the amount of the loan;
 - ii. amortization period;
 - iii. annual loan payment; and
 - iv. interest rate.
- b. A commitment letter, dated within six (6) months prior to the Application Deadline, from any Tax Credit syndicator or investor.
 - i. Because of the limited quantity of State LIHTCs and ANHTCs, any applicant requesting either must provide alternate financing.
 - ii. The commitment letter for Tax Credits must include, at a minimum, the following information:
 - Price per Tax Credit;
 - Amount of Tax Credits to be acquired;
 - Total amount of equity to be paid to the development and the proposed schedule of equity payments;
 - Amount of rehabilitation expenditures per-unit required by investor or syndicator, if applicable;
 - Debt coverage ratio required; and
 - Reserve amount required.

Applications must evidence compliance with the investor's requirements, if stricter than ADFA's requirement.

ADFA may contact the applicant to request supplemental or revised financial commitments.

3. Appraisal. All Applications for new construction must include a certified land appraisal dated within one (1) year prior to the Application Deadline.

All rehabilitation Applications must include an appraisal, dated within one (1) year prior to the Application Deadline, which supports the purchase price of the development. The appraisal must separately identify

- a. the appraised value for the buildings in the development and the value of the land;
- b. the value of any federal rental subsidy enhancing the value of the buildings (the applicant must submit a commitment letter from the federal agency stating the subsidy has been awarded).

The purchase price must be equal to or less than the appraised value of the land, and buildings if applicable.

4. Site Control Information. The applicant must have site control and provide evidence one of the following forms:

- Executed purchase option contract;
- Executed long-term land lease or option on a long-term 99-year lease; or
- Evidence of executed assignment and assumption agreement with executed purchase option agreement, contract, or land lease agreement attached.

a. The Option, Contract, or Agreement must be in the name of an existing entity or person that is in a position of control over the applicant and give such entity or person the exclusive right to purchase or lease the property for a period not to expire prior to December 6 of the year of the MFHA. The option or contract cannot be subject to extension fees in order for the contract to reach the required expiration date.

If one of the above applies, the applicant must also submit a copy of the recorded deed evidencing the Seller's or Lessor's ownership.

b. The applicant will sign a Verification of Arm's-Length Transactions. A statement in the market study or appraisal will not suffice. If the seller is an entity, the applicant must disclose the identity of all members, partners, or shareholders.

c. For all acquisition/rehabilitation developments, the Application must include documentation for each building claiming acquisition credits that:

- i. Satisfies the "purchase requirement" of IRC Section 42(d)(2)(B)(i) (submission of Purchase Option, Contract, or Agreement);
- ii. Provides either the seller's certification that the 10-year hold rule in IRC Section 42(d)(2)(B)(ii) has been satisfied for each building or the requirement is not applicable under IRC Section 42; and
- iii. Provides the applicant's certification that each building was not previously placed in service by the applicant or by any person related to the applicant in accordance with IRC Section 42(d)(2)(B)(iii).

5. Zoning and Planning Commission Information. A signed letter, dated within six (6) months prior to the Application Deadline, from the appropriate zoning authority (including a planning commission, if applicable) stating the proposed use of the property and that the property is properly zoned for such proposed use.

6. Independent Market Study. Applications must include a comprehensive market study conducted by a disinterested party on ADFA's "Market Analyst Firms – Approved List" dated within six (6) months prior to the Application Deadline. The analyst will

acknowledge in the study that it is being done for ADFA's use and benefit. ADFA will reject an application if the market study shows:

- a. inadequate demand for any unit size proposed, based upon the targeted income group for that unit size,
- b. a capture rate of more than 20% for any unit,
- c. the proposed development will detrimentally affect other affordable housing in the area,
- d. the proposed location is or nearly is saturated, or
- e. any other negative impact.

7. Tenant Income Audit. All Applications with rehabilitation projects must include a complete, detailed Tenant Income Audit that identifies all existing tenant households and their incomes. The audit must separately identify those tenant households whose income exceeds applicable income limits.

8. Articles of Incorporation, IRS documentation, and Nonprofit Determination Statement. To be considered for the 10% nonprofit set-aside the development must:

- a. involve a qualified nonprofit organization that owns an interest in the development, materially participates, is not affiliated with or controlled by a for-profit organization, and has as one of its exempt purposes the fostering of low-income housing;
- b. comply with Internal Revenue Service Revenue Procedure 96-32 in that at least seventy-five percent (75%) of the total number of residential units are designated for low-income residents.

9. Capital Needs Assessment. All rehabilitation developments must include a capital needs assessment conducted by a firm on ADFA's "Capital Needs Assessment Firms – Approved List" dated within six (6) months prior to the Application Deadline. The assessment must involve an interview with the maintenance personnel and an analysis of the following:

- a. Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utility lines;
- b. Structural systems, both substructure and superstructure, including exterior walls, balconies and stairways, exterior doors and windows, roofing system and drainage, including but not limited to termite, mold, and water damage;
- c. Interiors, including unit and common area finishes (carpeting, vinyl flooring, tile flooring, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors;
- d. Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection, and elevators; and
- e. Buildings, facilities, common use areas, residential units, parking areas, curbs, ramps, and railings to ensure compliance with applicable federal, state, and local laws regarding accessibility for persons with disabilities.

The report must include a physical inspection of the interior and exterior of each unit and each building and must specifically identify the scope of work and estimated costs necessary to:

- Rehabilitate all components examined and analyzed in the development to a new or "like-new" condition;
- Correct all deficiencies in order for the development to comply with applicable federal, state, and local laws and requirements regarding accessibility for persons with disabilities; and
- Correct all deficiencies to ensure compliance with ADFA's Multifamily Minimum Design Standards (other than as may be waived).

All rehabilitation applicants must submit a statement that the scope of rehabilitation will include all capital needs set forth in the Capital Needs Assessment.

10. Financial Feasibility and Rental Rate Impact. ADFA will underwrite all Applications through the competitive allocation cycle using the same criteria regardless of project type or location based on the following criteria:

- a. the extent to which the development's sources of funds equals the development's uses of funds;
- b. the extent to which any proposed developer fee deferral can be paid within 15 years;
- c. the reasonableness of total development costs;
- d. repayment terms (including interest rates, total debt and loan terms) for all proposed debt; and
- e. the reasonableness of the expenses, incomes, and increases in both show in the submitted pro-forma.

ADFA may incorporate terms and conditions required by the equity investor(s) and lender(s) into its underwriting of an Application.

Applications for 9% LIHTCs must demonstrate a Rental Rate Impact score of at least 40 (see the Points Criteria for more information). The benefits of the lower LIHTC rents resulting from the Rental Rate Impact requirement should be spread equitably across all LIHTC units in the development, taking into account unit sizes and income levels. The net LIHTC rent specified in the Application for a unit may be increased from time to time but at no time during the compliance period (i.e., the period of 15 taxable years beginning with the first taxable year of the development's credit period) may the monthly rental rate for such unit exceed the amount then determined by increasing, on a compound interest basis, the net LIHTC rent specified in the Application for such unit by 2.75% on each January 1, beginning on the first January 1 following the award of LIHTCs.

11. Operating Deficit Reserve and Replacement Reserve Funds. The total development budget must include:

- a. Operating Deficit Reserve Fund equal to the greater of:
 - i. Six (6) months of: projected annual operating expenses, annual debt service payments, and annual replacement reserve deposits;OR
 - ii. The amount of operating reserves required by the applicant's equity investor(s) or lender(s).
- b. The funding and maintenance of a Replacement Reserve Fund equal to the greater of:
 - i. \$250 per unit per year;OR
 - ii. The amount of replacement reserves required by the applicant's equity investor(s) or lender(s).

These amounts must be evidenced in the final cost certification.

The Replacement Reserve shall be maintained, and yearly deposits shall be made equal to the above requirement, for the entirety of the affordability period. The applicant shall identify the name of the financial institution where each reserve will be held. A copy of the December bank statement for the Operating Reserve account and the Replacement Reserve account must be submitted by the Owner to ADFA's Compliance Department by February 1 of each year. If the December bank statements do not evidence a year-end summary of each month's balance, copies of bank statements for all twelve (12) months for the Operating Reserve and the Replacement Reserve must be submitted to ADFA's Compliance Department by February 1 of each year. The ending balance of each reserve account must total the amounts required under (a) and (b) above, whether the accounts are replenished from operating income or by the general partner of owner or member, shareholder or partner of general partner, as ADFA deems appropriate.

ADFA must approve all withdrawals from the operating deficit reserves, in writing, prior to withdrawal. Owner must submit with the withdrawal request supporting documentation evidencing the need for the funds, written evidence that insufficient funds exist in the primary operating account, and a written guaranty by the general partner of owner or member, shareholder or partner of general partner, as ADFA deems appropriate, will deposit sufficient funds so that at the end of the year the total in the Operating Deficit Reserve account equal the amount required under (a) as modified herein for Rural Development developments. ADFA will require notification from owner on any Replacement Reserve withdrawal and notice of approval from development's lender or investor as applicable.

Rural Development-funded developments:

In the event that Rural Development (“RD”) requires initial operating capital in an amount less than ADFA’s Operating Deficit Reserve, ADFA will credit the amount of reserves required by Rural Development to the total amount of reserves required under (a) and (b) above, but in no event shall the **total** amount of reserves be less than that required under (a) above. (For example, if under (a) \$50,000 is required and under (b), \$10,000, and Rural Development requires \$20,000 of initial operating capital, the owner must fund a separate Operating Deficit Reserve account, withdrawals from which must be approved by ADFA, in the amount of \$30,000. Using the same amounts except that RD requires a \$70,000 initial operating capital, the owner must fund a separate \$50,000 Operating Deficit Reserve.)

A copy of the December bank statement for the Operating Reserve account and the Replacement Reserve account must be submitted by the Owner to ADFA’s Compliance Department by February 1 of each year. If the December bank statements do not evidence a year-end summary of each month’s balance, copies of bank statements for all twelve (12) months, for the Operating Reserve and the Replacement Reserve, shall be submitted to ADFA by February 1 of each year. The ending balance of the Operating Deficit Reserve account plus the development’s ending cash balance per RD Form 3560-7, plus the balance of RD’s initial operating capital reserve must total the amounts required under (a) and (b); thus, general partner of owner or member, shareholder, or partner of general partner of owner may have to deposit funds into the separate Operating Deficit Reserve account to total this amount.

Owner shall not make any withdrawals from the Operating Deficit Reserve account without providing the following items to ADFA:

- supporting documentation evidencing the need for the funds,
- written evidence from RD that the use of reserve funds is not an eligible expense from RD initial operating capital reserve account or that insufficient funds exist in the account, and
- a written guaranty by the owner or general partner of owner, as ADFA deems appropriate, that sufficient funds will be deposited so that at the end of the year the total funds in the Operating Deficit Reserve account equal the amount required under (a) as modified herein for RD developments.

12. Developer Fee.

- a. The developer's fee, which includes the developer fee plus developer’s overhead and profit plus consultant’s fee, plus any interest payable on a deferred fee, cannot exceed ten percent (10%) of the "Net Development Costs".

"Net Development Costs" is the total uses of funds, less syndication-related costs, developer’s fee and development reserves.

The amount of eligible basis attributed to the acquisition of existing property must be equal to or greater than the percentage that the total acquisition costs of existing property is to the total development costs.

The applicant must disclose in its Application or an attachment all persons and entities that will receive any portion of the developer fee, including all members, partners, and shareholders of such entities. The applicant must notify ADFA in writing of any proposed change in the person(s) or entity/entities.

- b. Developer Fee – Deferral. ADFA will underwrite any portion of the developer’s fee that is deferred and included as a source of funds will be ensure payment by the earlier of the end of the 15-year compliance period or the time frame required by the Applicant’s equity investor or lender(s). The amount shown as deferred in the application may not exceed fifty percent (50%) of the maximum fee allowed.

13. General Requirements, Contractor’s Overhead, and Contractor’s Profit. The amount allocated to General Requirements cannot exceed seven percent (7%) of its construction hard costs. General requirements include items that are required for the contractor to provide for the specific project including, but are not limited to: field supervision; field engineering such as field office, sheds, toilets, and phone; performance and payment or latent defects bonds; building permits; site security; temporary utilities; property insurance; and cleaning or rubbish removal. Such items should not be accounted as separate line items in the development budget.

ADFA will limit the

- Contractor’s Profit to ten percent (10%), and
- Contractor’s Overhead to four percent (4%)

of the development’s construction hard costs plus general requirements. ADFA may determine whether costs included in the contractor’s overhead and contractor’s profit calculations are appropriate and reasonable.

The applicant must disclose in its Application or an attachment all persons and entities, whether or not affiliated with the applicant, that will receive any portion of the contractor’s profit, including all members, partners and shareholders of such entities The applicant must notify ADFA in writing of any proposed change in the person(s) or entity/entities that shall receive any portion of the contractor’s profit.

14. Per-unit Credit and Cost Limits.

- a. ADFA will limit the amount of 9% LIHTCs allocated to each unit to the following:

Single-Family Detached	Limit Per-Unit	All other New Construction	Limit Per-Unit	Acquisition / Rehabilitation	Limit Per-Unit
0-1 Bedrooms	\$14,500	0-1 Bedrooms	\$13,000	0-1 Bedrooms	\$9,000
2-Bedrooms	\$15,000	2-Bedrooms	\$13,500	2-Bedrooms	\$10,000
3-Bedrooms	\$16,200	3-Bedrooms	\$13,750	3-Bedrooms	\$12,750
4-Bedrooms	\$17,500	4-Bedrooms	\$13,850	4-Bedrooms	\$13,250

- c. ADFA will limit the per-unit total development cost of developments receiving 4% LIHTCs in connection with tax-exempt bond financing to \$200,000.

ADFA has the discretion to determine reasonableness of all costs and may deny an Application based upon the unreasonableness of costs regardless of whether such costs are within the limits stated herein. Upon request by ADFA, applicants may provide justification and supporting documentation of costs.

15. Minimum Debt Coverage Ratio. The application must demonstrate a minimum debt coverage ratio that is the greater of: 1.15 or the minimum debt coverage ratio required by any lender or investor providing a financial commitment during the compliance period.

RD developments shall use the income, expenses and reserves as approved in the most recently executed Form 3560-7. The applicable minimum debt coverage ratio must be evidenced by the MFHA and supporting documentation.

16. Rehabilitation Standard. Rehabilitation hard costs (labor and materials) on any rehabilitation development, including those with tax-exempt bonds, will be no less than \$15,000 per-unit and no less than twenty percent (20%) of the development's total costs.

17. Rental Assistance Contract. All applicants proposing a development that has been approved for project-based rental assistance must submit with its Application a copy of the executed rental assistance contract and if applicable Form RD 3560-7 or HUD-92458; if a rental assistance contract has not been executed at time of Application submission, a commitment letter from the agency providing the rental assistance must be submitted. All such applicants must also submit documentation of the most recently approved amount of rent to be charged or a letter from HUD granting a waiver and supported by the market study and/or appraisal.

If the waiver or approval is not obtained by the carryover allocation Application Deadline, ADFA may terminate the LIHTC award.

18. Fair Housing Training. The applicant must include with its Application a certification evidencing completion of four (4) hours of fair housing training by a principal of the following members of the development team, or manager dealing with day-to-day operations, as

appropriate under the circumstances: Owner; Developer; Management Company; Consultant, if applicable; and Architect. A certification is valid for the purpose herein for two (2) years from date of certification. Each development team member should attend the class most relevant to his or her development team role.

19. Identification of Applicant and Identity of Interest. The Application must identify all members or partners, as applicable, of the applicant entity. If any such members, partners, or shareholders are entities, the Application must identify all members, partners, or shareholders of such entities. None of the parties identified may be affiliated with the project's architect or civil engineer.

20. Assisted Living Developments. Assisted living developments are ineligible.

21. Narrative Description of the Development. A detailed narrative description that includes the type of development; development site and surrounding area; types of financing; tenants served; bedroom mix; percentage of low-income units; involvement of nonprofit support service organizations; project amenities; energy efficiency; rehabilitation work to be performed, if applicable; and any other relevant descriptive information.

22. Letter to Public Housing Authority ("PHA") for use by Persons on Waiting List. The applicant shall provide written documentation to the local PHA of its intent to develop a low-income multifamily rental development.

23. Utility Allowance Calculation. The applicant must submit documentation from the utility entity selected which list the allowance for each type utility usage applicable for each type of unit. The documentation must be signed and dated by an authorized representative within six (6) months prior to the Application Deadline, unless the Application is for acquisition/rehabilitation of a HUD or RD development, then the current executed HUD or RD rent schedule forms are acceptable.

24. Letter of Participation, Licenses, and Certification. Applications must include:

- a. A cover letter describing the participation of the members or partners in the development.
- b. The General Contractor/Builder, Architect, and Engineer must be licensed to conduct business in Arkansas.
- c. Certification of Good Standing from the Arkansas Secretary of State for the applicant, developer, and management company.

25. Capacity and Identity of Interest. ADFA may disqualify an Application based on its determination that any development team member does not have the capacity to undertake performance, information provided in the Criminal Background and Disclosure Form, or documentation supporting instances of nonperformance, including:

- a. Failure to meet and maintain minimum property standards;

- b. Failure to meet and maintain any material aspect of a development as represented in an Application;
- c. Excessive late or incomplete reports to ADFA;
- d. Failure to obtain prior approvals from ADFA;
- e. Having been involved in uncured financing defaults, foreclosures, or placement on HUD's list of debarred contractors;
- f. Events of material uncorrected noncompliance with any Federal or State assisted housing programs within the prior seven (7) year period;
- g. Failure to comply with ADFA's request for information or documentation on any development funded or administered by ADFA; or
- h. Removal as a general partner.

Each member of the development team as listed in the Development Team tab of the MFHA must complete the "Conflict of Interest Acknowledgment" and "Contract and Grant Disclosure and Certification Form".

As appropriate for each entity listed on the Development list and the Limited Partnership, the Application must include an organizational chart for each member of the Development Team listing the entity, and all applicable stockholders, directors, officers, members, managers, trusts, trustees, etc. including full names and addresses and percentage of ownership and voting rights.

26. Site Plan, ALTA/NSPS Survey, and Topographic Survey. A site plan depicting the location and orientation of each existing or proposed building and all paved areas throughout the development site, including sidewalks and parking areas.

For new construction applications, an ALTA/NSPS survey and topographic survey of the proposed development site signed and dated within six (6) months of the Application Deadline by a person authorized to perform such surveys by the Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors. While an ALTA/NSPS survey is not an application requirement for a rehabilitation project, such a survey may be required by ADFA post-award.

27. Tax Abatement. ADFA will not consider the effect of lowered, abated, or deferred real estate taxes in its underwriting of the proposed development without adequate documentation.

28. Multifamily Housing Minimum Design Standards. Construction of the development must be in accordance with ADFA's "Multifamily Housing Minimum Design Standards" (as well as all applicable local, state, and national building codes). The applicant's architect must complete and execute the "Multifamily Housing Minimum Design Standards Checklist".

Applicants may request a waiver for rehabilitation proposals by submitting the following:

- a. Certification by the design architect or licensed engineer that the standard concerned is impractical or impossible;

- b. Description of alternative design which will achieve the benefit of the required standard; or certification by the design architect or licensed engineer that no alternative design can be undertaken to achieve the benefit of the required standard due to structural constraints; and
- c. Statement by applicant that it will implement any alternative identified by the design architect or licensed engineer.

ADFA will require a certification from the design architect or licensed engineer confirming compliance with ADFA's "Multifamily Housing Minimum Design Standards" prior the issuing IRS Forms 8609.

29. Allocated Credit Limitation for Competitive Round. A Development Team member, whether an individual or entity, may not have an economic interest, as defined below, in more than 30% of the total amount of 9% LIHTCs that ADFA has available for allocation in that given year or as otherwise limited by the ADFA Board of Directors.

This section is not intended to prohibit any independent third-party professionals from rendering services on behalf of multiple proposed developments. However, this section will apply to such service provider if the service provider has an economic interest as defined below in addition to its provision of services to the proposed development.

ADFA may determine when this rule regarding economic interest should apply in circumstances other than those specifically referenced above. ADFA may impose additional special conditions and limitations upon Applications, applicants and development team members.

The applicant must identify all of its members, partners and shareholders, contractor, architect, management company, consultant, and developer of the proposed development. The Application must identify all development team members, including all members, partners, and shareholders of any identified members, partners or shareholders. .

No changes can be made in the composition of the development team without ADFA's written approval. The applicant must identify all members, partners, and shareholders of the proposed replacement member, including all members, partners, and shareholders. All policies regarding economic interest shall apply to the proposed replacement member. If the proposed replacement would cause a development team member or related person or entity to violate the Allocated Credit Limitation, such proposed replacement will be denied, or if the economic interest becomes known to ADFA at a later time, ADFA may terminate the reservation, terminate the carryover allocation, deny issuance of credits via IRS Form(s) 8609, suspend all responsible persons and entities from the LIHTC Program, or take other action reasonable under the circumstances.

An economic interest exists in the context of an Application and development when:

- a. There is any financial interest in the development, including but not limited to the lending of funds to a development team member or the owner of the

development for the construction or operation of the development, the guaranteeing of a note on behalf of a development team member or owner of the development, or the making of any other guarantee that is contingent upon the construction or performance of the development; and/or

- b. A development team member also has an economic interest in a development if the ownership entity or any portion thereof should be stated on the financial statements of the development team member or related entity according to Generally Accepted Accounting Standards.

Economic interest shall not include a contractual relationship whereby a development team member provides services that are within its ordinary course of business and receives reasonable payment for such services. For example, an architect contracting with a development owner to prepare plans for the rehabilitation of a development in exchange for a contractual sum shall not constitute an economic interest. Or, for example, an independent contractor providing a payment or performance bond or guarantee and warranty pertaining to their construction work and budget as outlined in an AIA A series contract shall not constitute an economic interest.

For the purposes stated herein, "development team member" shall include but not be limited to all persons and entities stated in the Application as members of the development team.

The applicant must disclose all identities of interest that exist among all persons or entities acting as a development team member, whether or not expressly named as a development team member.

The Application must include a verified statement from all development team members disclosing all economic interests in the development. ADFA may deem a person or entity as a development team member.

30. Multiple Phase Developments. ADFA will not award LIHTCs to multiple phases of the same overall development submitted in a funding cycle absent approval of a waiver request submitted prior to the Application submission deadline.

A senior development adjacent to a family development are not phases of the same development.

II. PROCEDURES FOR AWARDING POINTS AND RANKING APPLICATIONS.

A. POINTS CRITERIA.

Each Application will be awarded, or penalized points based upon the Points Criteria outlined below.

Points Criteria

1	Location Area of Opportunity Index (“AOI”) calculated for the development’s Census Tract. AOI is based on unemployment rate, vacancy rate and population growth. The AOI is calculated for every Census Tract and ranges 0-10. Points will be rounded accordingly: 0-.4 receive 0 points, .5-1.4 receive 1 point, etc. The AOI of each Census Tract can be found on ADFA’s website.	Up to 10 Points
2	Tenant Needs 4 points to developments with 100% of the units in the development designed, equipped, and set-aside for elderly defined at 42 USC 3607(b)(2) and Ark. Code Ann. §16-123-307(d)(1) OR 4 points to developments targeting low-income families (or individuals with children) with a minimum of 20% of the units having three or more bedrooms. (If an applicant chooses 100% elderly, the applicant will <u>not</u> receive points for three or more bedrooms) OR 4 points for Supportive Housing for disabled persons (as defined in section I(A) above) with a minimum of 30% of units for such special needs’ tenants. The applicant must submit a statement: <ul style="list-style-type: none">• Describing the design and construction of the development that will meet the needs of the disabled population served;• Describing the on-site support services that will meet the needs of the disabled population served; and• Stating the supportive services will be optional to the disabled population served (see 26 C.F.R. §1.42-11(b)).	4 Points

	<p>The proposed service provider must submit a statement describing:</p> <ul style="list-style-type: none"> • The disabled population to be served; • The needs of the disabled population to be served; and • The service to be provided to the disabled population served, including the frequency of provision. 	
3	<p>Rehabilitation Point Deduction 12 Points deducted if the proposed development involves the acquisition and/or rehabilitation of existing structures that were allocated LIHTC within 20 years or less from the date of the Application Deadline.</p>	-12 Points
4	<p>Profit and Overhead 1 point for general requirements not exceeding 4% of construction hard costs 1 point for contractor profit not exceeding 8% of construction hard costs plus general requirements 1 point for contractor's overhead not exceeding 2% of construction hard costs plus general requirements 1 point in addition for meeting all three of the above</p>	Up to 4 Points
5	<p>Historic Developments 4 points for proposed development involving rehabilitation of structures that are individually listed in the National Register of Historic Places ("NRHP") or have been determined to contribute to a Registered Historic District. The applicant must submit a letter dated within six (6) months from the date of the Application Deadline and must verify the structures are individually listed in the NRHP or have been determined to contribute to a Registered Historic District.</p>	4 Points
6	<p>Rental Rate Impact Up to 20 points for percentage advantage of net LIHTC rents below the allowable rents for a 60% AMI unit of comparable multifamily rental developments in the area.</p> <p>ADFA will calculate the percentage advantage by the average percentage relative to the maximum allowable rents for a 60% AMI unit for each type of unit (<i>i.e. one-bedroom units, two-bedroom units, etc.</i>) using the following formula:</p> <p>Percentage Advantage = 1.000 (One) minus (Proposed LIHTC Rent / 60% AMI Rent Limit)</p> <p>ADFA will calculate the overall Percentage Advantage using a weighted average of the Percentage Advantage for each type of unit. The range of points is: 20 for 59.1% to 60.0% 19 for 58.1% to 59.0%</p>	Up to 20 Points

	18 for 57.1% to 58.0% 17 for 56.1% to 57.0% 16 for 55.1% to 56.0% 15 for 54.1% to 55.0% 14 for 53.1% to 54.0% 13 for 52.1% to 53.0% 12 for 51.1% to 52.0% 11 for 50.1% to 51.0% 10 for 49.1% to 50.0% 9 for 48.1% to 49.0% 8 for 47.1% to 48.0% 7 for 46.1% to 47.0% 6 for 45.1% to 46.0% 5 for 44.1% to 45.0% 4 for 43.1% to 44.0% 3 for 42.1% to 43.0% 2 for 41.1% to 42.0% 1 for 40.1% to 41.0%	
7	<p>Site Selection</p> <p>The site location will be evaluated for accessibility and proximity to services appropriate to the type of housing proposed and residential character of the surrounding area.</p> <p>The Application shall identify the name, driving directions, and distance from the development to the site amenities listed below.</p> <p>3 points for the following site amenities located within two (2) miles of the site. Site amenities must be appropriate for the population served. Distances will be measured by the shortest available driving distance from the development's address to the applicable address of the site amenity as calculated by Google Maps. Points will only be given for the site amenities listed below:</p> <ul style="list-style-type: none"> a. Grocery Store or Supermarket; b. Pharmacy or Drug Store; c. School, daycare or education center (<i>cannot be awarded if 100% elderly only property</i>); d. Public Park or Green Space (does not include school grounds); e. Book lending public library; f. Daily operated senior center or facility offering daily services for seniors (<i>can be awarded only if 100% elderly property</i>); g. Hospital, health clinic, or medical doctor's office (medical doctor's office must have a general practitioner.); h. Public transportation; and i. Access to Pedestrian Trails. 	<p>Up to 24 Points</p>

	<p>Site amenities presented for scoring shall be referenced in the Market Study map. All site amenities presented for scoring must list a contact person and a verifiable phone number in the Application.</p> <p>3 points if at least four residential units are within 0.5 miles of the site boundary and occupied as of the application deadline.</p> <hr/> <p>Points will be deducted for site selection. There is not a limit on the total number of points that can be deducted.</p> <p>3 points will be deducted if incompatible uses are adjacent to the site (adjacent is defined as nearby, but not necessarily touching).</p> <p>2 Points will be deducted if incompatible uses are within 0.3 miles (approximately 500 yards) of the site. Distances are measured by lineal distance or “as the crow flies.” The following list of incompatible uses is not exclusive:</p> <ul style="list-style-type: none"> a. Junk Yard, Public Dump, or Solid Waste Disposal; b. Pig Farm or Chicken Farm; c. Prison or Jail; and d. Airport. <p>Scoring considerations will also include, among other things, site suitability regarding topography (grade, low-lying area, flood plain, or wetlands).</p>	
8	<p>Total Development Costs Per Unit</p> <p>An application will receive the scores below based on the entirety of uses listed divided by the number of units (including for employees).</p> <p>15 points for <\$150,000 13 points for \$150,000 to \$159,999 10 points for \$160,000 to \$169,999 8 points for \$170,000 to \$179,999 6 points for \$180,000 to \$189,999 3 points for \$190,000 to \$199,999 0 points for >\$200,000</p>	Up to 15 Points
9	<p>Serves Lowest Income Group Possible</p> <p>7 points for developments with units dedicated to serve households whose incomes are 30% or less of the area median income. Rents must be restricted accordingly. The number of units must be at least 5% of the total number of residential rental units in the development.</p>	7 Points

	<p>Applications for developments that will receive or do receive and is anticipated to continue to receive, project based rental assistance for more than 75% of units are not eligible for these points. These units cannot be used to satisfy low HOME requirements.</p> <p>The applicant must submit a signed statement with the Application stating the number of units to be set-aside for the extremely low-income tenants and such set-aside must be evidenced in the rent schedules of the Application.</p>	
10	<p>4 Points for a signed statement which indicates the number of years the period of affordability will be extended. To receive points, the period of affordability must be at minimum 35 years.</p> <p>OR</p> <p>4 Points for eventual tenant ownership pursuant to 26 U.S.C. §42(i)(7). The applicant must submit the proposed right of first refusal contract to be offered for eventual tenant ownership.</p>	Up to 4 Points
11	<p>Community Revitalization Plan 4 points are available to a development that is located in a Qualified Census Tract if it contributes to a concerted community revitalization plan.</p> <p>The applicant must submit with its Application a copy of the Community Revitalization Plan approved by the appropriate planning authority and such Plan must specifically address a need for affordable housing. Please highlight specific sections of the Revitalization Plan that reference affordable housing.</p>	4 Points
12	Past Performance Point Deduction	Up to -25 Points

	<p>ADFA will reduce an Application's score up to but no more than twenty-five (25) points if the applicant, developer or application preparer failed to meet program or ADFA requirements on a prior ADFA development. These points will be assessed and evaluated on a round-by-round basis, and applicants will be notified at Scoring Notification Period when a situation necessitating the assessment of these points occurs.</p> <p>Some examples that will result in point reduction include:</p> <ol style="list-style-type: none"> Failure to follow through with representations made at the time of Application on previous developments where points were awarded that resulted in the project being funded; Repeated and documented poor response or slow response in providing follow-up documentation or clarification requests made by ADFA staff; Failure to meet one or multiple deadlines on previous developments – including Form 8609/Cost Certification Packages; Failure to submit Final Cost Certification with Total Development Costs at or below the amount represented in the awarded application; and Failure to submit inspection reports and draw requests on monthly basis during construction. 	
13	<p>Non-Compliance Point Deduction</p> <p>ADFA will reduce an Application's score up to but no more than twenty (20) points for the calculated Non-Compliance Percentage for each Application. The Non-Compliance Percentage shall be based upon any history of non-compliance of existing or past LIHTC developments of which the following parties were or are part of the Development Team or otherwise involved in the operation of the development as determined by ADFA:</p> <ol style="list-style-type: none"> Members, partners or shareholders of the applicant; General Partner of the applicant; Members, partners, or shareholders of the General Partner of the applicant; or Members, partners, or shareholders of members of the applicant. <p>If the applicant or management company has not previously participated in ADFA's LIHTC Program, the applicant and/or management company must request a report from any other housing finance agency where the applicant, management company, or any related entity has previous LIHTC experience that lists each instance issuance of IRS Form 8823, any report of non-compliance and UPCS inspection standards within the last three (3) years.</p>	Up to -20 Points

<p>The Non-Compliance Percentage is calculated during the Review and Response Period and evidenced by issuance of IRS Form 8823, Report of Non-Compliance, and UPCS inspection standards. The Non-Compliance Percentage is the percentage of non-compliant units over total units reviewed. The Non-Compliance Percentage of all ADFA properties reviewed within a 3-year period of time will be averaged and given an average Non-Compliance Percentage. Owners are subject to point deductions based on the average Non-Compliance Percentage as follows:</p> <table><tr><td><u>Average Non-Compliance Percentage</u></td><td><u>Negative Points</u></td></tr><tr><td>51% or more</td><td>20</td></tr><tr><td>41-50%</td><td>15</td></tr><tr><td>31-40%</td><td>10</td></tr><tr><td>16-30%</td><td>5</td></tr><tr><td>0-15</td><td>0</td></tr></table>	<u>Average Non-Compliance Percentage</u>	<u>Negative Points</u>	51% or more	20	41-50%	15	31-40%	10	16-30%	5	0-15	0	
<u>Average Non-Compliance Percentage</u>	<u>Negative Points</u>												
51% or more	20												
41-50%	15												
31-40%	10												
16-30%	5												
0-15	0												

Total Points Possible:

B. RANKING AND AWARD DETERMINATION.

ADFA will rank each Application according to the score awarded. In the event there is a tie in scoring for two or more Applications, the following are tie-breaker criteria ADFA would likely use, but not exclusively of others:

1. maximum number of affordable rental units produced; or
2. the Application which requested the least amount of LIHTCs per-unit; or
3. the Application that has the least amount of aggregate participation by any one owner or development team member. Aggregate participation is defined as the total of all Applications recommended for funding in the current round; or
4. equitable geographic distribution of awarded LIHTCs.

ADFA may disapprove any Application for an allocation of LIHTCs, regardless of the ranking under the priorities and point ranking outlined above.

III. EQUAL OPPORTUNITY.

ADFA requires that occupancy of all housing financed or otherwise assisted by ADFA be open to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. Contractors and subcontractors engaged in the construction or rehabilitation of such housing must provide equal opportunity for employment without discrimination as to race, color, religion, sex, handicap, familial status, or national origin.

IV. ADFA FEES.

All fees are non-refundable. ADFA will not refund overpayments.

A. APPLICATION FEE.

Applications will include the fees (determined from the list below) in the form of a check payable to the Arkansas Development Finance Authority.

Competitive Applications

1.0% of requested annual amount of LIHTCs

Bond Applications

\$10,000 per development site

B. RESERVATION FEE.

A reservation fee of \$150.00 per low-income unit will be required to secure the reservation of LIHTCs.

C. ISSUANCE OF IRS FORM 8609 FEE.

A fee equal to \$150.00 per low-income unit will be required at the time the owner submits the final development cost certification requesting issuance of IRS Form 8609(s).

D. MONITORING FEE.

A monitoring fee equal to ten percent (10%) of the total annual LIHTC allocation will be required at the time the owner submits the final development cost certification requesting issuance of IRS Forms 8609(s).

V. FINANCING WITH TAX-EXEMPT BONDS AND LIHTCS.

Developments financed with tax-exempt bonds must apply to receive LIHTCs not allocated as part of the State's annual LIHTC ceiling, and meet all applicable requirements, of the QAP.

In addition, each development financed with tax-exempt bonds must comply with ADFA's Guidelines for Reserving Volume Cap for Tax-Exempt Private Activity Bonds for Residential Rental Housing and ADFA's Rules and Regulations Implementing the Law on the Allocation of the State Volume Cap for Private Activity Bonds Pursuant to Act 1004 of 2001 in effect at the time of the filing of the Application.

CERTIFICATION ON FOLLOWING PAGE.



CERTIFICATION MUST BE TURNED IN WITH APPLICATION.

CERTIFICATION

By submitting this MFHA, I agree to:

1. Participate in, provide information for, and cooperate with ADFA in the creation and maintenance of a web-based housing registry of ADFA-assisted housing developments.
2. Consent to ADFA obtaining information regarding the applicant's, or any member of the applicant's development team or any other member, partner or shareholder of an entity development team member or having any interest, indirectly or directly, in a development team member, from the housing finance agencies in all states in which the applicant and development team members as defined herein have applied for credits, or otherwise participated in the development of a housing development.

I hereby certify that I have read and am aware of all terms, conditions, and requirements of the above-referenced instructions, and I am aware of all consequences should I fail to complete the MFHA Application as set forth in these instructions.

Date

Applicant

Date

Developer

Date

Application Preparer



2021 ADFA Qualified Allocation Plan
Summary of Substantive Changes
October 16, 2020

1. With respect to the projects that may receive the ADFA-discretionary 30% basis boost, we removed an obsolete reference to counties designated in the consolidated plan and a reference to USDA Rural Development-funded projects.
2. With respect to the allocation of state low-income housing tax credits and (state) Affordable Neighborhood Housing Tax Credits, we and DF&A substituted references to tiers 3 and 4 of the job-creation incentive tiers of the Arkansas Economic Development Commission for obsolete references to counties designated in the consolidated plan. We and DF&A also removed the 10% nonprofit set-aside for state low-income housing tax credits.
3. We added the average-income set-aside as an option for applicants and added rules prohibiting market-rate units and requiring proportionate distribution of designations to avoid unintended consequences of that option.
4. We provided for the applicant – rather than ADFA – to commission the required market study, and required capture rates not exceeding 20%.
5. We made a Rental Rate Impact score of at least 40 points a threshold requirement for 9% LIHTC applicants and required equitable distribution of RRI benefits.
6. We equalized certain operating deficit reserve requirements between rehabilitation and other projects.
7. We lowered the threshold limit on developer's fees from 15% to 10% of net development costs, and imposed a limit on the amount of the developer's fee that may be deferred.
8. We added a per-unit cost cap applicable to 4% LIHTC/bonds applications.
9. We changed the fair housing training requirement from 5 hours to 4.
10. We prohibited applicant-architect/engineer affiliations.
11. We removed provision for funding assisted living projects.
12. We relaxed the survey requirements for rehabilitation projects.
13. We substituted points for profit and overhead limitations for points for public housing waiting lists.
14. We changed Rental Rate Impact from a 100-point scoring category to a 4-point threshold category plus a 20-point scoring category.
15. We increased the importance of site selection in scoring and added residential character of the area as a scoring criterion.
16. We substituted points for a low capture rate for points for total development cost control.
17. We equalized fees for all applications.