

**LOW-INCOME HOUSING TAX CREDIT PROGRAM
2004/2005 QUALIFIED ALLOCATION PLAN**

I. Introduction

The Low-Income Housing Tax Credit Program (LIHTC), created by the Tax Reform Act of 1986, is intended to encourage the construction or rehabilitation of low-income rental units. The regulations which govern this Program are contained in Section 42 of the Internal Revenue Code. This Program provides Federal tax credits to qualified project owners who agree to maintain all or a portion of a project's units for low-income individuals or families. The State of Hawaii created a State Low-Income Housing Tax Credit which is equal to thirty percent (30%) of the Federal tax credit allocated to a project. The Housing and Community Development Corporation of Hawaii (HCDCH) has been designated as the agency responsible for the administration of both Federal and State Low-Income Housing Tax Credit Programs for the State of Hawaii.

In accordance with the Omnibus Spending Bill of 2000, Omnibus Budget Reconciliation Act of 1989 and the Budget Reconciliation Bill of 1990, the HCDCH developed this "Qualified Allocation Plan" which sets forth (1) the criteria to evaluate and allocate tax credits to projects which best meet the housing needs of the State, and (2) the procedure to monitor for compliance with the provisions of the Low-Income Housing Tax Credit Program.

The allocation plan will utilize a point system to rank projects based upon the evaluation criteria established. The ranking of projects, along with all other relevant data, will determine the priorities to be followed by the HCDCH in allocating tax credits to the projects under consideration. The scores derived from the point system will be a component of the overall evaluation, and not the sole determining factor for the awarding of tax credits. In addition to the scores derived, the HCDCH will review all relevant data required in the application which include, but are not limited to, the applicant's financial statements, experience in producing low-income housing units, reasonableness of development and operating budgets, and an independent market study in awarding the tax credits.

Projects selected under this allocation plan shall then be evaluated as to the minimum amount of tax credits required in order to make the project feasible.

This allocation plan shall be effective for reservations and awards of LIHTC for calendar years 2004 and 2005. The allocation plan is subject to amendment by the HCDCH Board of Directors.

II. Application Process

Applications for the Low-Income Housing Tax Credit are available at the HCDCH's office or by submitting a written request to the HCDCH at the address shown below.

Housing and Community Development Corporation of Hawaii
677 Queen Street, Suite 300
Honolulu, Hawaii 96813
ATTN: Finance Branch
(808) 587-0567

Applications for tax credits should be submitted to the HCDCH by no later than the indicated deadline. Upon receiving an application for tax credits, the HCDCH shall review the application to ensure that the application is complete and contains all required information. The executive director shall have the right to defer the consideration of any application if, in his sole discretion, such deferral is deemed in the best interests of meeting housing needs.

Complete applications shall then be evaluated in accordance with the allocation plan to determine the project's rank in relation to other projects in the evaluation. Projects receiving the highest ranking shall then be evaluated to determine the minimum amount of tax credits required to make the project feasible. The amount of tax credits reserved or allocated to a particular project will be limited to the amount the HCDCH, in its sole discretion, deems necessary to make the project feasible.

III. Selection Criteria Point System

Each application will be evaluated and awarded points in accordance with the following criteria. **Unless otherwise indicated, all references to low-income unit(s) or low-income rental unit(s) shall mean low-income housing tax credit unit(s).**

	CRITERIA	POINTS
1.	Project will provide low-income units for a longer period than is required under Section 42 of the Internal Revenue Code.	0 - 6*
2.	Project will provide a greater percentage of low-income units than required under Section 42 of the Internal Revenue Code.	1 - 5*
3.	Project's federal tax credit/low-income rental unit ratio.	0 - 6*
4.	Project has the appropriate zoning or the applicant has secured the necessary exemptions/variances to construct the project as proposed.	0 or 2*
5.	Applicant demonstrates that all low-income units will be made available, through a process acceptable to HCDCH, to people on the waiting list for low-income public housing.	0 or 3*
6.	Project will serve tenant populations of individuals with children and provide 3-bedroom units or larger.	0 or 3*

	CRITERIA	POINTS
7.	Project will give preference to tenant populations.	0 or 3*
8.	Project is participating with a local tax-exempt organization and is sponsored by a qualified non-profit, as defined in Section 42 of the Internal Revenue Code.	0 or 1 *
9.	The ratio of total tax credits requested as a percentage of total project cost.	0 - 5 *
10.	The ratio of total permanent sources of state funds as a percentage of total project cost.	0 - 4 *
11.	The ratio of developer fee and developer overhead as a percentage of total project cost.	0 - 5 *
12.	Project will be receiving project-based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent. Eligible programs shall include, but not be limited to, the Rural Development 515 Loan Program and HUD Section 8 project-based Rental Assistance Program.	0 - 4 *
13.	Local Government Support.	0 - 3 *
14.	Developer will provide a “rent-to-own” option for residents of the project after 15 years.	0 or 2 *
15.	Project is located in a qualified census tract, the development of which contributes to a concerted community revitalization plan as determined by HCDCH.	0 or 2 *
16.	Project location and market demand.	0 - 6 *
17.	Developer experience.	0 - 6 *
18.	Overall project feasibility.	0 - 10 *

* See pages 4 - 10 for description.

Criteria 1. If, under the Restrictive Covenant Document, the project is "affordable" for:

30 years or less	0 point
31 years through 35 years	.5 point
36 years through 40 years	1 point
41 years through 45 years	2 points
46 years through 50 years	3 points
51 years through 55 years	4 points
56 through 60 years	5 points
61 years or more	6 points

Criteria 2.

With respect to the set-aside affordability, if project provides:

20% of the project to households earning less than 50% of AMGI, OR 40% of the project to households earning less than 60% of AMGI	1 point
40% of the project to households earning 50% or less of AMGI, OR 80% of the project to households earning 60% or less of AMGI	2 points
80% of the project to households earning 50% or less of AMGI, OR 100% of the project to households earning 60% or less of AMGI	3 points
100% of the project to households earning 50% or less of AMGI	4 points
100% of the project to households earning 40% or less of AMGI	5 points

Criteria 3.

The ratio is derived as: "Total Federal Tax Credits Requested (Annual)/Total Number of Proposed Low-Income Rental Units"

Greater than \$15,000/unit/year in federal tax credits requested, then	0 points
\$14,000 through \$14,999/unit/year in federal tax credits requested, then	1 point
\$13,000 through \$13,999/unit/year in federal tax credits requested, then	1.5 points
\$12,000 through \$12,999/unit/year in federal tax credits requested, then	2 points
\$11,000 through \$11,999/unit/year in federal tax credits requested, then	2.5 points
\$10,000 through \$10,999/unit/year in federal tax credits requested, then	3 points
\$9,000 through \$9,999/unit/year in federal tax credits requested, then	3.5 points
\$8,000 through \$8,999/unit/year in federal tax credits requested, then	4 points
\$7,000 through \$7,999/unit/year in federal tax credits requested, then	4.5 points
\$6,000 through \$6,999/unit/year in federal tax credits requested, then	5 points
\$5,999 or less/unit/year in federal tax credits requested, then	6 points

Criteria 4.

The applicant's readiness to proceed with the development of this project with respect to development approvals:

The applicant has obtained all necessary development approvals for this project and is ready to proceed with the development of this project without any additional development approvals (ie. Zoning changes or 201G, variances). 2 points

Project is not appropriately zoned and/or does not conform to State Land Use regulations or requires 201 G, variances, subdivision approval or any other exemption from any local or state land use restrictions. 0 points

Criteria 5. The applicant demonstrates that all low-income units will be made available, through a process acceptable to HCDCH, to people on the waiting list for low-income public housing.

If the answer to the question is NO 0 points

If the answer to the question is YES and the applicant is able to demonstrate that all low-income units will be made available, through a process acceptable to HCDCH, to people on the waiting list for low-income public housing. 3 points

Criteria 6.

The project will serve tenant populations of individuals with children and will provide 3-bedroom units or larger for at least 20% of all low-income units in the project.

If the answer to the question is NO 0 points

If the answer to the question is YES 3 points

Criteria 7.

Project will commit to serve the following tenant populations:

- 1) **Tenant populations with special housing needs.** Special needs groups are “persons for whom social problems, age or physical or mental disabilities impair their ability to live independently and for whom such ability can be improved by more suitable housing conditions.” (HCDCH Five Year Strategic Plan 1999-2003) Any preference shall be recorded in the Declaration of Land Use Restrictive Covenants until the expiration of the extended use period.

Projects may receive 3 point for this criteria if it commits to the following:

The project will set-aside at least 30% of all units for tenant populations with special housing needs. Persons with special housing needs may include the physically and mentally disabled. To receive consideration for this criteria:

- The project must commit to provide case management or services specific to this population.
- The Market Study shall specifically address the housing needs for the special needs group.

3 points

-Or-

- 2) **Elder or elderly households.** Projects may receive a total of 3 points, if all residential units in the project are set-aside for elders or elderly households.

3 points

Applicants may receive points for electing to serve one of these tenant populations.

Criteria 8.

Project is participating with a local tax-exempt organization and is sponsored by a qualified non-profit, as defined in Section 42 of the Internal Revenue Code.

If the answer to the question is NO

0 points

If the answer to the question in YES

1 point

Criteria 9.

If total federal tax credit requested (gross) as a percentage of total project cost is:

Greater than 80% of total project cost	0 points
71% through 80% of total project cost	1 point
61% through 70% of total project cost	2 points
51% through 60% of total project cost	3 points
41% through 50% of total project cost	4 points
40% or less of total project cost	5 points

Criteria 10.

If total permanent sources of state funds as a percentage of total project cost is:

Greater than 76% of total project cost	0 points
51% through 75% of total project cost	1 points
26% through 50% of total project cost	1.5 points
1% through 25% of total project cost	2 points
0% of total project cost	4 points

Permanent sources of state funds are those funds that are administered by the HCDCH. Such funds include, but are not limited, to the Rental Housing Trust Fund and the Dwelling Unit Revolving Fund. For the purpose of evaluating this criteria, HOME Funds awarded to projects by the City and County of Honolulu, County of Hawaii, County of Maui and County of Kauai will not be considered as permanent sources of state funds.

Criteria 11.

If the combined total of developer fee and developer overhead is:

Greater than 12% of total project cost	0 points
11% through 11.99% of total project cost	0.5 point
10% through 10.99% of total project cost	1 point
9% through 9.99% of total project cost	2 point
8% through 8.99% of total project cost	2.5 points
7% through 7.99% of total project cost	3 points
6% through 6.99% of total project cost	3.5 points
5% through 5.99% of total project cost	4 points
4.99% or less of total project cost	5 points

Criteria 12.

Project will be receiving project-based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent. Eligible programs shall include, but not be limited to, the Rural Development 515 Loan Program and HUD Section 8 project-based Rental Assistance Program.

If the answer to the question is NO

0 points are awarded

If the answer to the question is YES

1 to 4 points are awarded *

* If the whole project has project based subsidies then 4 points is awarded, if only a portion of a project has project based subsidies, then the scoring will be adjusted based upon the percentage of units subsidized. The percentage is derived as "Number of Subsidized Units / Tax credit and non-tax credit subsidized units," provided they are developed simultaneously.

Criteria 13.

Local government support. The project will receive a below market loan or grant from a State or local governmental agency other than HCDCH which, in total amounts to 10% or more of the total development cost.

The project has not applied for a below market loan or grant from a government agency, or if the total amount applied for is less than 10% of total development costs.

0 points

The project has applied for a below market loan or grant from a government agency. Documentation must be provided evidencing that an application for financing has been submitted.

1 point

The project has received a commitment from a government agency. A copy of a commitment letter or contractual agreement must be included in the application.

3 points

Criteria 14.

Developer will provide a "rent-to-own" option for residents of the project after 15 years.

If the answer to the question is NO

0 points

If the answer to the question in YES

2 points

Criteria 15.

Project is located in a Qualified Census Tract. The project will redevelop existing housing which contributes to a concerted community revitalization plan as determined by HCDCH. For example: site is located in an Enterprise Community, Empowerment Zone, or part of a County redevelopment plan.

If the answer to the question is NO

0 points

If the answer to the question in YES

2 points

To receive consideration for this criteria, applicant must provide an explanation on how this project is in compliance with such plan and its benefit to the overall community. The applicant must provide a letter of interest or a binding agreement with the government agency administering the community revitalization plan.

Criteria 16.

Project location and market demand.

0 to 6 points

Minimum Threshold. A comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project by a disinterested party approved by the HCDCH must be submitted as part of this application. The Market Study shall be completed at the Owner's expense. Any application which failing to submit a Market Study or submits a Market Study dated over 6 months from the time of application, shall be returned to the applicant and will not receive further consideration.

Market Study requirements are specified in Appendix 1.

The points awarded will be based on HCDCH's evaluation of factors such as, but not limited to:

- Project is located in a county's urban core/district (preference) versus rural district;
- Employment opportunities, recreational facilities, shopping facilities, medical facilities located in the immediate vicinity of the project site;
- Strength of the market study.
- Are the proposed rental rates below market rents for the immediate surrounding area?
- Are project or housing characteristics (e.g., design, density) appropriate for neighborhood? Does project appear to satisfy market need? Is there documented/supported market demand?
- Is location in the neighborhood conducive for senior or family residential use?
- Consideration of any issues that would affect the marketability of the proposed project.

Criteria 17.

Developer experience.

0 to 6 points

The points awarded will be based on the HCDCH's evaluation of factors such as, but not limited to:

- Developer's (or any party affiliated with the development team) experience or ability (or inexperience/inability) to successfully complete the project;
- Developer's success or failure in meeting the objectives of the program on past proposals;
- Development Team's success or failure in meeting the objectives of the program on past proposals;
- Development Team's experience or ability to successfully complete the project;
- Project's general partner and/or affiliates has a history of chronic and/or substantive noncompliance, has failed to meet the requirements of the Declaration for Low-Income Housing Credits for previous projects, or has any significant tax credit history with other state tax credit allocating agencies.

Criteria 18.

Overall Project Feasibility.

0 to 10 points

The points awarded will be based on HCDCH's evaluation of any and all factors that could impact overall project feasibility, such as, but not limited to:

- Reasonableness of development costs;
- Feasibility of financing structure;
- Operational feasibility. For example, unreasonable operating expenses;
- Identification of serious issues in need of resolution for the project to proceed in a timely manner and the ability of the Development Team to resolve these issues. (For example, lack of adequate financing sources; land use and zoning issues; utility, water, sewer availability.) The ability of the development team to resolve these issues such that the development of the project will commence in a timely manner;
- Adequacy of Reserves including but not limited to Operating Reserve and Repair and Replacement Reserve;
- Services and amenities provided to tenants that will enhance the livability of the project;
- Adequacy of project contingencies in the development budget.

IV. Rights of the HCDCH

The HCDCH reserves the right to disapprove any application or project for any tax credit reservation or allocation, regardless of ranking under the criteria and point system as contained in section III of this allocation plan. The executive director or his designated representative shall have the authority to defer consideration of any application if, in his sole discretion, such deferral is deemed in the best interest of meeting housing needs.

The HCDCH reserves the right, in its sole discretion, to (i) hold back a portion of the annual state and federal housing credit ceiling for use during later reservation cycles, (ii) carry over a portion of the current year's housing credit ceiling for allocation to a project which has not yet been placed in service, and (iii) under certain conditions, issue a reservation for up to 25% of the next year's housing credit ceiling.

The HCDCH is required under the I.R.C. of 1986, as amended, to allocate the minimum amount of tax credits required to make a project feasible. The determination of the amount of tax credits to be reserved or allocated to a project shall be made solely at the discretion of the HCDCH. The HCDCH may, at the time of issuance of the IRS Form(s) 8609 for the project, decrease the amount of tax credits allocated to a project based on the actual cost and financing of the project.

The HCDCH in no way represents or warrants to any interested party which may include, but is not limited to, any developer, project owner, investor or lender that the project is, in fact, feasible or viable.

No member, officer, agent or employee shall be personally liable concerning any matters arising out of, or in relation to, the reservation or allocation of the Low-Income Housing Tax Credit.

V. Compliance Monitoring Plan

A. Summary

The HCDCH shall monitor compliance with all applicable Federal and State Program requirements for the period a project is committed to providing low-income rental units. The HCDCH will require that all qualified tenants of a project be certified upon occupancy and be re-certified annually to ensure compliance. Projects shall be required to maintain copies of the income certification for each tenant on forms approved or provided by the HCDCH. Projects will also be required to maintain records regarding number of rental units (including number of bedrooms and size of square footage of each bedroom); percentage of rental units that are low-income units; rent charged on each rental unit including utility allowances; number of occupants in each low-income unit for those buildings receiving tax credits prior to 1990; documentation regarding vacancies in the building; eligible and qualified basis of the building at the end of the first year of the credit period, and at the end of each year until required set-asides are met; and character and use of the nonresidential portion of the building that is included in the building's eligible basis, all in accordance with the rules published by the Internal Revenue Service. The HCDCH may perform an audit annually but, at a minimum, once every three years, and shall have access to all books and records upon notice to the project owner. Annually, owners of low-income housing tax credit projects will be required to certify to HCDCH that for the previous year, the minimum set-aside requirement was met; there was no change in the applicable fraction, or an explanation if there was a change; appropriate income certifications and documentation have been received for each low-income tenant; each low-income unit was rent-restricted in accordance with the Code; all units were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless as provided for in the Code); each building was suitable for occupancy, taking into account local health, safety and building codes; there was no change in the eligible basis in the project, or an explanation if there was a change; all tenant facilities included in the eligible basis were provided on a comparable basis without charge; rentals of vacancies were done in accordance with the Code; rentals of units were done in accordance with Code if any tenant's income increased above the limit allowed by Code; and a Restrictive Covenant document was in effect for the project, for those buildings receiving credits after 1989, all in accordance with the rules published by the Internal Revenue Service.

If the HCDCH becomes aware of non-compliance, the Internal Revenue Service shall be notified in accordance with the rules published by the Internal Revenue Service.

Please consult with your tax attorney and/or LIHTC consultant regarding Internal Revenue Code regulations. Owners are responsible for keeping abreast of current Program requirements.

The guidelines outlined below pertain to projects allocated Federal and State Low Income-Housing Tax Credits in the State of Hawaii.

B. Compliance

Owner/Manager Training

Owners, managing agents, and on-site managers should attend or document that they have recently attended training on management and compliance prior to leasing any units, but no later than receipt of IRS Form 8609, which certifies an allocation of tax credits. Training may be required following significant or repeated noncompliance events. At minimum, such training should cover key compliance terms, qualified basis rules, determination of rents, tenant eligibility, file documentation, next available unit procedures and unit vacancy rules, agency reporting requirements, record retention requirements, and site visits.

Set Aside

The project must comply with the low-income set-aside requirements of Section 42 of the Internal Revenue Code (the "Code") as chosen by the owner at the time of receiving the credits. The minimum requirements are either:

1. 20 percent or more of the units are occupied by tenants having a household income of 50 percent or less of the area median gross income (the "20-50 requirement"), or
2. 40 percent or more of the units in the project are occupied by tenants having a household income of 60 percent or less of the area median gross income (the "40-60 requirement").

Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937, as directed by the Internal Revenue Code. Area median incomes are determined annually by the U.S. Department of Housing & Urban Development (HUD), and are available from the HCDCH.

Rent

Units in the project must be rent-restricted to either thirty (30) percent of the median income adjusted for family size for the area in which the project is located or rent-restricted to thirty (30) percent of the imputed income limitations based on unit size. This rent-restriction must be maintained throughout the Term of the Compliance and Extended-use period. See 'D. Rent Restrictions' in this section for further information.

Term of Compliance

Projects receiving allocations during 1987 through 1989 have only a 15-year compliance period. Projects receiving a LIHTC allocation after January 1, 1990 must comply with eligibility requirements for the initial 15-year period (compliance period), in addition to the 15 or more years (extended-use period) determined by elections indicated in the Restrictive Covenant Document. The Restrictive Covenant Document must be recorded before credits are allocated.

Annual Certification

These and other compliance requirements as listed in Section A. Summary must be certified annually by the owner through the submission of the Annual Report. The Annual Report includes the Owner's Certificate of Continuing Program Compliance and shall

be submitted by February 1 of each year throughout the compliance/extended-use period. The Annual Report and the supporting documentation verifying the information on the Annual Report must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

IRS Form 8609

Owner shall complete Part II of IRS Form 8609 and submit with subsequent Annual

Report.

Qualified Basis Tracking Sheet (QBTS)

This form shall be submitted annually until the required set-asides are established. Documents will provide information on original tenants qualifying each building for tax credits minimum set-asides, and other set-asides.

Status Reports

This report is to be submitted annually by owners in such format as required by the HCDCH or its Authorized Delegate to document and track the continuous compliance of tax credit units. The documents report data that tenants are income eligible at move-in, that occupants of LIHTC units are re-certified at least on an annual basis and that the unit rents are restricted. Documentation will also indicate compliance with the vacant unit rule and 140% rule. The tracking of tax credit units substantiates the maintenance, increase or reduction of each BIN's qualified basis.

C. Qualifying Households

Applicants for low-income units should be advised early in their initial visit to the project that there are maximum income limits which apply for these units. Management should explain to the tenants that the anticipated income of all persons expecting to occupy the unit must be verified and included on a Tenant Income Certification (TIC) prior to occupancy, and re-certified on an annual basis. Applicants should be informed of other Internal Revenue Services requirements such as the Student Rule and Recertifications.

Unborn Children

In accordance with the HUD Handbook 4350.3, owner shall include unborn children in determining household size and applicable income limits. If permitted by state laws, owner shall require documentation of pregnancy in such circumstances.

Student Households

In accordance with the Internal Revenue Code, a household comprised entirely of full-time students may not be counted as a qualified household, unless the household meets at least one exception. Refer to the Internal Revenue Code for additional guidelines on the exceptions.

Owner shall utilize a lease provision requiring tenants to notify managing agent of any change in student status.

Calculating Anticipated Tenant Income

Owner shall qualify tenants by calculating household income using the gross income the household anticipates it will receive in the 12-month period following the effective date of the income verification or Recertification. Anticipated income should be documented in the tenant file by third party verification whenever possible, or by an acceptable alternate method of verification with documentation as to why third party verification was not available. Owner shall use current circumstances to project income, unless verification forms or other verifiable documentation indicate that an imminent change will occur. Owner shall refer to HUD Handbook 4350.3 for guidance on the proper calculation and verification of income and assets per IRC regulations.

Certification

Upon acceptance of an applicant to the project, a TIC must be completed for the applicant and certified to by the applicant and the owner. The form is a legal document which, when fully executed, qualifies the applicants to live in the set-aside units in the project.

The TIC must be executed along with the lease prior to move-in. No one may live in a unit in the project unless he is certified and under lease.

The original copy of the executed TIC form is to be retained in the applicant's file. The TIC and the supporting documentation verifying the TIC must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

Recertification

For projects with less than 100% set-aside:

To ensure each unit is complying with the LIHTC income restrictions, the HCDCH requires (a) the owner to annually recertify each tenant's income and household composition and (b) each tenant is to report certain changes in income and household composition which occur between regularly scheduled recertifications.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next available unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

Each tenant's annual recertification is to be completed within one year of last recertification. The request for recertification shall be made between 60 and 90 days before the effective date, and it must clearly state that the tenant has ten (10) calendar days in which to contact the owner to begin recertification processing. The notice must also state the days

and hours available for the interview, the information the tenant should bring to the interview, and how and whom to contact to schedule the interview.

Upon reverification of the tenant's income, the owner shall complete a new TIC, which shall be certified to by the owner or owner's designee.

Past-Due Recertification

A recertification is considered past due if the TIC form for the tenant is not certified by tenant and owner within twelve months of the last recertification.

D. Rent Restrictions

For projects receiving Low-Income Housing Tax Credits during the years 1987 to 1989, the tenant's gross rent may not exceed thirty (30) percent of the median income adjusted for family size for the area in which the project is located. The gross rent must include an allowance for utilities.

Projects receiving Low-Income Housing Tax Credits after January 1, 1990 must comply with the following procedures:

Units in the project must be rent-restricted to 30% of the imputed income limitations for each unit, based upon HUD area median incomes and size of units. Rents are imputed by bedroom size in the following manner: a unit which does not have a separate bedroom - 1 individual; and a unit with 1 or more separate bedrooms - 1.5 individuals per bedroom. The HCDCH provides rent limits for projects receiving a LIHTC allocation.

Gross rent does not include any payment for various rental assistance programs and supportive service assistance as outlined in Section 42 of the Code. Gross rent must include any allowance for utilities.

HUD publishes the area median incomes for each state annually. Updated income limits must be implemented pursuant to IRS Revenue Ruling 94-57, "Taxpayers may rely on a list of income limits released by HUD until 45 days after HUD releases a new list of income limits, or until HUD's effective date for the new list, whichever is later." Rents may be increased accordingly as the area median income increases.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

E. Eviction of Tenants

Once an eligible tenant has been certified and admitted to the project, the tenant may not be displaced solely due to an increase in the tenant's household income beyond the restricted limit.

F. Audits

The project may be subject to a management audit by the HCDCH or its Authorized Delegate annually but, at a minimum, once every three years. Notification of an audit shall be given to the owner at least 30 days prior to such audit. The results of the management audit and the recommendations for corrective action to protect and maintain the project shall be transmitted to the owner within thirty (30) days following the completion of the audit.

The purpose of the audit will be to conduct a physical inspection of the building and/or project, and, for at least 20 percent of the project's low-income units, to inspect the units and review the low-income certifications, documentation supporting the certifications, and rent records for the tenants in those units. The audit may also consist of a review of first year tenant records, a review of the documentation supporting the Annual Report, and any other documentation necessary for the HCDCH to make a determination as to whether the project is not in compliance with the Code and Section 235-110.8 of the Hawaii Revised Statutes.

When conducting tenant file reviews, HCDCH's and its Authorized Delegate's reviews shall include, but not be limited to:

- completed rental application, including certification of assets and disposal of assets, if applicable;
- tenant income certification completed for move-in and current year, including all required signatures and dates;
- income verification(s) completed and documented;
- assets verified in accordance with IRC regulations;
- student eligibility documentation;
- lease and lease addendums completed at move-in;
- utility allowance on file;
- review of first year tenant records which qualified the project initially for tax credits

The owner shall have a period of thirty (30) days in which to respond to the findings of the management audit. The HCDCH shall review the owner's response to determine the extent to which the issues raised in the management audit letter are addressed. Findings, whether corrected or not, will be reported to the IRS.

See the following Section J for information on notification to the IRS of any non-compliance found in the management audit.

G. Rural Housing Service (RHS) and Tax-exempt Bond Issue Projects

In accordance with the published IRS guidelines on compliance monitoring, an exception may be granted to RHS projects under its section 515 program and buildings or projects of which 50 percent or more of the aggregate basis is financed with the proceeds of tax-exempt bonds.

The IRC regulations allow for exception of a building from the inspection requirement if the building is financed by RHS under the section 515 program, the RHS inspects the building [under 7 CFR part 1930(C)], and the RHS and the allocating agency enter into a memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the allocating agency of the inspection results. Irrespective of the physical inspection standard selected by the allocating agency, a low-income housing project under section 42 of the Internal Revenue Code must continue to satisfy local health, safety and building codes. A memorandum of understanding has not been executed between the HCDCH and RHS.

Annual Reports, QBTS, Compliance Monitoring Status Reports and other reports are still required of RHS projects. Although the HCDCH has allowed the use of the RD 1944-8, the form does not determine eligibility for specific LIHTC requirements. Owners need to determine whether the TIC will be used or a worksheet will be attached to RD 1944-8 to determine eligibility under the IRC. Management audits will still be conducted as indicated herein.

An owner who for some reason is not able to make any of the required certifications stated on the Annual Report or other requirements must inform the Agency immediately of such inability, as well as explain the reason for said inability.

H. Reporting Requirements

- a. The **LIHTC Annual Report** must be submitted annually by February 1 of each year throughout the compliance/extended-use period.
- b. Part II of the **IRS Form 8609** must be completed by the owner and submitted with initial Annual Report.
- c. **Qualified Basis Tracking Sheets (QBTS)** are submitted at a minimum annually with LIHTC Annual Report until all set-asides are established.
- d. **Status Reports** are submitted annually by owners with Annual Report to document and track the continuance compliance of tax credit units throughout the compliance/extended-use period.

These forms must be sent in to the HCDCH or its Authorized Delegate at the address shown in Section II.

The Certification of Eligibility and LIHTC forms listed above are available from the HCDCH. Additionally, the HCDCH has data regarding HUD area median incomes, maximum rental rates, income verification information and third-party verification forms.

I. Fees

A compliance monitoring fee of up to \$25 per unit for all units within each project shall be charged annually for administrative expenses. This fee shall be submitted with the LIHTC Annual Report for each year of the compliance/extended-use period. The HCDCH reserves the right to adjust fees due to changing circumstances annually each January 1. It will be the responsibility of the HCDCH to inform the owner of any changes in the annual compliance fee prior to the submission of fees. The compliance monitoring fee will be effective as of the Placed in Service date for the first building.

J. Non-compliance Penalties

The penalty for non-compliance with these procedures is the potential recapture of the credits awarded and interest on the amount recaptured. The Internal Revenue Service shall determine penalties for non-compliance.

Upon determination by the HCDCH of non-compliance with the LIHTC Program, the owner shall be notified and given thirty (30) days to correct any discovered violations. In accordance with the Internal Revenue Service's published guidelines on compliance monitoring, the HCDCH will be required to notify the IRS within forty-five (45) days after the end of the thirty day correction period, whether or not the non-compliance is corrected. The HCDCH will be given the opportunity on the IRS form to indicate whether the owner has corrected the non-compliance. The HCDCH may extend the correction period, up to a total of six (6) months, if it is determined by the HCDCH that good cause exists for granting such an extension. In such case, the IRS will not be notified until the end of the extended correction period.

Appendix 1 Market Study

In accordance with Section 42 (m)(iii) of the Internal Revenue Code, the HCDCH requires a comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project by a disinterested party approved by the HCDCH must be submitted as part of this application. The Market Study shall be completed at the Owner's expense. Any application which failing to submit a Market Study or submits a Market Study dated over 6 months from the time of application, shall be returned to the applicant and will not receive further consideration.

The Market Study shall address the following information:

- A statement of the competence of the market analyst.
- A description of the proposed site.
- Demographic analysis of the number of households in the market area which are income eligible and can afford to pay the rent. Estimate of capture rates for the market areas.
- Geographic definition and analysis of the market area.
- Identification of the project including location, unit counts, income levels and target population. Market Study must be consistent with the proposed project.
- Analysis of household sizes and types in the market.
- A description of comparable developments in the market area.
- Analysis of practically available rents, vacancy rates, operating expenses and turnover rates of comparable properties in the market area.
- Analysis of practically available rents, vacancy rates and turnover rates of market rate properties in the market area.
- Projected operating funds and expenses, when available at the time of the study.
- Expected market absorption of the proposed rental housing, including a description of the effect of the market area.
- Identification and commentary of proposed projects in the market areas.
- Analysis of market demand for tenants with special housing needs when applicable.

Projects that are requesting credits from eligible basis generated from a Community Service Facility as defined in Section 42 (d) (4) (C) (iii) must provide a market study that addresses the following:

- A description of Services provided that improve the quality of life for community residents
- The market area and demand for services provided.
- The applicability of service provided to the community.
- The affordability of the services provided persons of 60% AMGI or less.