

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

Low Income Housing Tax Credit Program

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POLICY STATEMENT¹

DEFINITIONS

Adaptive Reuse:

In order for a building(s) to qualify as adaptive re-use developments, the building(s) must be different from its original or previous use, involving conversion to either 100% affordable housing, or some mix of affordable housing and other compatible uses. Adaptive reuse allows structures to retain their historical integrity while providing for the occupants' modern needs. Through changing and converting certain elements of a building, a structure can become a residential affordable housing building or a mixed use (commercial and affordable housing) building. Adaptive reuse developments may also involve some demolition of the old infrastructure, extensive retrofitting to current building codes that may not have been in effect when the building was first constructed.

Affordable Assisted Living:

Residential developments for low- to moderate-income seniors that provide individual apartments in tandem with supportive services that support functional capacity and maximize independence and choice in a physically accessible environment thereby allowing seniors to age in place. Assisted living promotes independence and ensures the dignity of seniors through the concept of "person centered planning" (PCP) which leaves decision making capacity with the senior and their chosen advisers in terms of decisions related to the choice of supports coordinator, the development of a supports plan, choice of service providers, and choice of residency.

Assisted living developments may be stand alone developments or part of a larger Continuous Care Retirement Community which provides the full spectrum of senior housing and health care options, from independent living to licensed skilled nursing care on the same general site. Affordable assisted living units may also be contained in mixed income developments provided that the affordable units and market rate units are indistinguishable from each other in terms of physical attributes, layout, etc. Developments may be new construction or retrofit of an existing facility.

Chronically Homeless: See Addendum III

Community Development Corporations:

In order to qualify as a Community Development Corporation (CDC) an Applicant must be one of the following, a non-profit corporation, community action agency, or public housing commission having a prescribed geographic focus for its affordable housing activities with a minimum 3 year track record evidencing experience and capacity in developing affordable housing including but not limited to LIHTC projects. If the CDC is

¹This document is subject to ongoing changes as information contained within it needs to be added, removed, or modified.

LIHTC Allocation Policy #1

3/16/2009

a non-profit corporation, it must be duly formed and operating under applicable Michigan law and must also be recognized by the IRS as a 501(c)(3) or (4) organization under the IRS Code. A CDC may not be controlled by, no under the direction of, individuals or entities seeking to derive profit or gain from the CDC.

Community Revitalization Plan:

A published document, approved and adopted by the local governing body by ordinance or resolution, that targets specific geographic areas for low-income residential developments serving residents at or below 60% of the area median income.

Domestic Violence Survivor: See Addendum III

Hard Equity Commitment:

A binding commitment (that may be conditioned upon an award of LIHTC) identifying syndicator and investor, submission of documentation showing the equity price to be paid, and a nonrefundable fee equal to 6% of the annual LIHTC dollar amount reserved for the project, must be submitted at the time of application. Within 60 days from the date of allocation, all projects with a Hard Equity Commitment must fulfill the requirements listed in Section XI.C of the 2009 Qualified Allocation Plan. Failure to fulfill these requirements will result in a loss of the tax credit allocation, loss of the 6% fee, and may result in negative points to the Applicant in future funding rounds.

Homeless: See Addendum III

New Economy/Downtown:

In order to qualify as a New Economy/Downtown development, the development must be mixed-use, pedestrian friendly, limited to no more than 50 or fewer housing units (including a manager's unit) and be located in a traditional downtown or commercial center of densely built buildings.

A traditional downtown or commercial center is an area of where 20 or more contiguous buildings have been planned, zoned, or used for commercial purposes for 50 or more years and where a majority of the buildings are built zero feet back from the public right of way and are adjacent to one another. In order to be a traditional downtown or commercial area, the area must also contain a significant number of multi-level, mixed-use buildings. The buildings must be owned by three or more parties.

Mixed-use means buildings where the ground floor is used for retail or other commercial or office space and the upper floors have more than one purpose, such as housing, commercial or office space, or in any combination thereof.

Single Room Occupancy: See Addendum III

Special Needs Population: See Addendum III

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ISSUANCE OF RETURNED OR RECAPTURED CREDIT

This policy bulletin outlines MSHDA's guidelines for use of returned or recaptured tax credit which was allocated in a previous year.

A tax credit recipient may be unable to fulfill the requirements set forth in the Qualified Allocation Plan. Consequently, the recipient may return the credit or MSHDA may be required to recapture the credit. At the sole discretion of the Authority, returned or recaptured tax credit may be reissued employing the following criteria:

1. Returned or recaptured credit may be made available in the upcoming funding round; or
2. Returned or recaptured credit may be awarded to a project(s) that have been determined in a previous funding round to be eligible for credit, but for which no credit was available.

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Policy Statement

EXCHANGE OF CREDIT FOR CREDIT IN A SUBSEQUENT YEAR

Under Section 42 of the IRC, a Carryover Allocation of Low Income Housing Tax Credit is valid if; 1) for qualified buildings that receive an allocation of credit in the first half of a calendar year, at least 10 percent of the taxpayers reasonably anticipated basis in the project (as of the close of the second calendar year following the calendar year in which the allocation is made) is incurred by the end of the calendar year in which the allocation is made; or 2) for qualified buildings that receive an allocation of credit in the second half of a calendar year (after June 30th), at least 10 percent of the reasonably anticipated basis in the project (as of the close of the second calendar year following the calendar year in which the allocation is made) is incurred within six months of the allocation; and 3) the qualified building(s), which is(are) part of the project meeting the 10 percent test, are placed in service by the end of the second calendar year following the year of allocation. If the building(s) fail to be placed in service by the end of the second calendar year following the year of the allocation, the credit is lost to the project and is returned to the state allocating agency.

In certain, unusual circumstances, delays may occur which will prevent the project from being placed in service at the end of the second calendar year from the date of the Carryover Allocation. MSHDA may allow the credit to be returned and may issue a Carryover Allocation in the year in which the credit is returned without the necessity of competing for funding, provided certain conditions, including assessment of facts by MSHDA, are met. Credit must be returned/exchanged prior to the close of the second calendar year following the calendar year in which the allocation is made.

At no time will any project be allowed more than three calendar years from the date of initial Carryover Allocation to project completion, unless approved by MSHDA.

If a return/exchange of credit is granted, a fee of 5% of the annual credit amount will be charged, and must be paid at the time the return/exchange is granted.

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POLICY STATEMENT

DEFINITION OF FEDERAL, STATE, OR LOCAL FUNDS

This policy statement outlines the types of funding that will be awarded points under section B of the Scoring Summary-Selection Criteria.

- Community Development Block Grant (CDBG) funds
- HOME loans or grants
- Department of Housing and Urban Development (HUD) loans or grants
- Michigan State Housing Development Authority (MSHDA) loans or grants
- Local municipality loans or grants
- Local philanthropic organization loans or grants
- In-kind contributions from the local municipality or local organizations –e.g., donated building or land.
- Federal Home Loan Bank (FHLB) Community Investment Program (CIP) loans
- Federal Home Loan Bank (FHLB) Affordable Housing Program (AHP) grants
- Rural Development (RD) loans
- State and/or Federal Historic/Brownfield Tax Credits
- Loan Guarantees

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POLICY STATEMENT

TENANT OWNERSHIP PLAN

Eight points are awarded under Michigan's Qualified Allocation Plan for projects where the owner agrees to transfer ownership of 100 percent of the housing tax credit units at the end of the initial 15-year compliance period from the initial ownership entity of the project to tenant ownership. The sales price cannot exceed the total of: (i) the outstanding principal mortgage balance for the unit, plus (ii) all federal, state and local taxes attributable to the sale, plus (iii) the seller's actual costs of sale such as title insurance premiums, legal fees, closing fees, tax proration adjustments, home warranty costs and owner-paid repairs, and (iv) other reasonable costs of sale approved by MSHDA. To qualify for the points, the owner must provide a detailed proposal for eventual tenant ownership, and must receive MSHDA's approval of deed restrictions or land trusts. The plan must incorporate a limited partnership ownership exit strategy and the provision of services including home ownership education and training, and down payment assistance, where necessary.

To qualify for the points, the questions listed below must be answered and included as Tab 7 with the application package.

1. How and when will the tenant be informed of their option to purchase the property and informed of the regulatory restrictions recorded on the property?
2. How will the unit be converted from rental to home ownership?
3. What is the exit strategy for the owner?
4. Will a written purchase agreement be entered into?
5. How will the purchase price be determined?
6. Will the owner provide title insurance?
7. Will the buyer be given a warranty deed?
8. Who will instruct the buyer to file for Michigan's Homestead Exemption?
9. Will there be down-payment assistance? If yes, what agencies will be used and how will the buyer be made aware of the agencies?
10. Will a licensed housing inspector inspect the unit before it is sold? If there are required repairs, who will pay for them? If the owner is paying for repairs, will there be an escrow agreement if applicable?
11. What will happen if the tenant buyer later decides to sell the property? Will there be any resale or sale price restrictions?

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

TAX-EXEMPT BOND FINANCED LOW INCOME HOUSING TAX CREDIT PROJECTS

According to Section III of the 2008 Qualified Allocation Plan (QAP):

In accordance with Section 42 of the IRS Code, tax-exempt bond financed projects are required to satisfy certain basic requirements for allocation of LIHTC and are subject to the QAP. These projects are not, however, subject to the LIHTC allocation limits, other QAP requirements from which they are expressly excepted, or as determined by MSHDA.

The following policies apply to projects financed with Tax-Exempt Bonds and Low Income Housing Tax Credits (LIHTC):

- **Allocated on a Rolling Basis**
 - Tax-Exempt Bond LIHTC projects are allocated LIHTC on a rolling basis and are not subject to the scheduled funding round(s) as stated in Section VI.A. of the 2008 QAP.
- **50-Point Minimum Threshold Score**
 - Tax-Exempt Bond LIHTC projects are required to meet a minimum threshold score of 50 points from the Scoring Summary accompanying the 2008 QAP to be eligible for a Reservation of LIHTC.
- **Permanent Supportive Housing Threshold does not apply**
 - Tax-Exempt Bond LIHTC projects are not required to target ten percent (10%) of total units to Supportive Housing Tenants as stated in Section VIII.A.1. of the 2008 QAP.
- **Not Subject to Allocation Limits**
 - Tax-Exempt Bond LIHTC projects are not subject to the \$1,000,000 allocation limit as stated in Section VI.B.1. of the 2008 QAP.
- **Do Not Count Towards Maximum Award to any one Principal**
 - Award(s) of LIHTC to project(s) financed with volume cap Tax-Exempt Bonds do not count towards the \$2,000,000 maximum award from the annual tax credit ceiling to any one Principal as stated in Section VI.B.2 of the 2008 QAP.
- **Tax-Exempt Bond/4% LIHTC projects are required to submit the following for LIHTC staff review and approval prior to issuance of a Reservation:**
 - Primary Application
 - Addendum I
 - Authority Approved Staff Report (exhibits listed in the Exhibit Checklist of Addendum I are not required for Tax-Exempt projects unless requested by MSHDA Staff.)
- **Allocation and Compliance Fees**
 - Tax-Exempt Bond/4% LIHTC projects are subject to the allocation and compliance fees enumerated in Section XVIII and Section XIX of the 2008 QAP respectively (See LIHTC Compliance Policy Bulletin #8 for further guidance on Compliance Fees for Tax Exempt projects).

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POLICY STATEMENT

FINANCIAL CAPACITY AND CREDITWORTHINESS

The applicant, contractor, and non-profit (if applicable) will be evaluated and approved for financial capacity and creditworthiness based on the following:

1. All applicants, contractors, and non-profit partners (if applicable) shall submit financial statements that are dated within six months of the application due date. If, upon review of such financial statements, it is determined that more recent financial statements are needed in order for the Authority to adequately evaluate the financial condition of the issuer, they will be requested.
2. Financial Statements for individuals proposing to be the applicant or general contractor of a housing development, including each individual member of a partnership, must be submitted on MSHDA's standard individual financial statement form. In addition to the financial statements required of the individual partners of a partnership, financial statements of the partnership itself, if it has been formed, are required to be submitted. Partnership financial statements are not required to be audited, nor are they required to be on the MSHDA form.

Corporations proposing to be the applicant, general contractor, or non-profit partner (if applicable) of a housing development must submit an audited balance sheet that is within 15 months of the application due date. In addition, if the audited balance sheet is not dated within six months of the application due date, and interim balance sheet dated within six months of the application due date must be submitted. Such balance sheet must be in a form substantially the same as the audited balance sheet.

In lieu of an audited balance sheet, a balance sheet can be submitted that is prepared by an independent CPA or prepared by a CPA who is an employee of the proposed applicant or contractor. If it is prepared without audit by an independent CPA, the balance sheet must be accompanied by a letter from such CPA stating that the CPA has prepared or compiled the balance sheet from the books and records of the corporation. If it is prepared by a CPA employed by the corporation, a letter must accompany the balance sheet signed by the CPA to the effect that although the CPA has not performed an audit of the balance sheet and furthermore is employed by the corporation and thus is not independent, to the best of the CPA's knowledge and belief the balance sheet accurately reflects the financial position of the corporation.

In both of these cases, the balance sheet must be accompanied by a statement from the chief executive or operating officer and the chief financial officer of the corporation stating to the effect that the balance sheet presents fairly the financial position of the corporation to the best of each person's knowledge and belief. If the corporation is inactive or newly formed, the Authority may require personal financial statements of the owners and will require evidence of the existence of the assets being used to meet the Authority's requirements per item 6 below.

The financial statements of non-profit applicants are not required to be audited or prepared by a CPA. Included in the calculation of the non-profit's resources will be the anticipated proceeds from syndication of the project.

3. The Authority will not approve the allocation of tax credits if the applicant, contractor, or non-profit partner (if applicable) has outstanding tax liens, or does not have a reasonable credit payment history. To expedite the credit review of corporate applicants, contractors, and non-profit partners (if applicable), it is recommended that current financial information be on file with Dun & Bradstreet.
4. Projects submitted by an owner, applicant, developer, non-profit, or related party or entity that currently has a project or projects out of compliance will not be accepted until the event of non-compliance is corrected.
5. Contractors must have net liquid assets at least equal to 3% of the construction contract of the proposed project, plus the construction contract for project(s) that have been approved previously and have not placed in service. Net liquid assets include cash and assets readily convertible into and likely to be converted into cash, less current liabilities. An unconditional letter of credit or line of credit from a bank or other provider, including an affiliated company or individual, may be included in liquid assets provided that the term of any loan or draw extended on such line of credit or letter of credit is for at least one year. If the provider is an affiliated company or individual, such provider must have net worth at least equal to 5% of the total development costs. Listed stocks and bonds can also be included in liquid assets, but IRA and/or Keogh accounts cannot be included. It will be up to the discretion of the Authority as to what assets can be included in liquid assets and the judgment will be made based on the likely availability of such items for meeting working capital needs on the proposed project.
6. Applicants, including non-profit partners (if applicable), will be required to have a net worth, in aggregate, equal to at least 5% of the proposed mortgage loan(s), plus mortgage loan(s) for project(s) that have been approved previously and have not placed in service.

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POLICY STATEMENT

REAL ESTATE APPRAISAL REQUIREMENTS

MSHDA uses real estate appraisals for a variety of LIHTC allocation purposes:

1. To estimate the value of a proposed project;
2. To compare the price to be paid for the project to its appraised value to assure that the purchase price is reasonable;
3. To estimate both the value of the land and its improvements and to determine if the applicant made a similar cost segregation in its application;
4. To help determine the economic feasibility of a project by comparing the income and expense estimates in the appraisal to the cash flow estimates of the applicant to assure that the cash flow estimates are reasonable.

Real estate appraisals shall be performed by independent fee appraisers licensed in Michigan as certified general appraisers. The appraisal report shall conform to applicable Michigan statutory and regulatory requirements and the requirements of the Uniform Standards of Professional Appraisal Practice.

Appraisals shall be dated no later than 6 months from the application due date.

For acquisition/rehabilitation projects, MSHDA limits the acquisition price to the lesser of the actual purchase price or the "as is" appraised value of the property prior to rehabilitation.

For all other projects, the value of the land included in project cost shall not exceed the lesser of its appraised value or the purchase price.

For in-kind contributions of land, evidence of the value of the contribution must be supported by an appraisal.

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POLICY STATEMENT

USE OF TAX CREDIT IN A COOL CITIES DESIGNATION

The Cool Cities program is more than the sum of one housing development; it is a carefully thought out plan that brings a neighborhood together and revitalizes it. The following must be submitted with all applications:

1. Provide a map outlining the entire Cool Cities neighborhood showing where the development is located within the Cool Cities neighborhood boundaries. The map must also outline the Cool Cities neighborhood relative to its:
 - a. Arts and culture;
 - b. Pedestrian-friendly environment/pedestrian activity;
 - c. Residential and commercial density;
 - d. Historic district, if applicable; and
 - e. Recreational opportunities/parks
2. Support from the local unit of government:
 - a. Provide an executed letter of support from the local government on official letterhead that shows support for the project. The letter must be from the highest elected official in the local government.
3. Provide a letter on official letterhead executed by a representative of the Cool Cities neighborhood (Catalyst grantee) entity verifying that you have discussed the development with him/her. In this correspondence the grantee must outline the following:
 - a. How the development blends with the goals of the Cool Cities neighborhood plan.
 - b. How the development will improve or enhance successful revitalization in the neighborhood.
 - c. The various sources of financing that have been committed within the boundaries of the Cool Cities designation, i.e., federal, state, or local monies, grants, philanthropic donations, conventional financing.

In addition to meeting the Qualified Allocation Plan general threshold requirements, final Cool Cities tax credit awards are subject to the requirements of this Policy Bulletin. Proposals shall be reviewed by the Cool Cities Specialist and Cool Cities Neighborhood Champion staff to assure proposals meet these requirements before any reservation award is made.

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POLICY STATEMENT

QUALIFIED ALLOCATION PLAN
UNDERSERVED POPULATIONS TARGET PERCENTAGE – NATIVE AMERICAN HOUSING

General Requirements

1. Project Location:
 - a. Project may be located in a rural or urban area.
 - b. Project may be located on Tribal or Non-tribal property.
2. Eligible applicants include:
 - a. Federally recognized tribes. A list of these tribes can be found at: http://www.michigan.gov/dhs/0,1607,7-124-5452_7124_7209---,00.html
 - b. Tribal Housing Authorities or Commissions – documentation, in the form of an ordinance or resolution, showing the formation of the Tribally Designated Housing Entity (TDHE) and that the TDHE was formed by a Federally recognized tribe.
 - c. Entities with a mission to create or preserve affordable Native American housing. This may only be accomplished through a joint venture with the Tribe, or with the approval of the Tribe whose members the proposed project will serve.
3. All tribes must demonstrate a HUD-approved Indian Housing Plan.

In addition to the requirements above, all projects applying under this target percentage will be held to the requirements and provisions contained in the Qualified Allocation Plan and its supporting documentation including, but not limited to Addendum I, the Policy Bulletins, and the Primary Application.

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POLICY STATEMENT

QUALIFIED ALLOCATION PLAN
UNDERSERVED POPULATIONS TARGET PERCENTAGE
– AFFORDABLE ASSISTED LIVING

Affordable Assisted Living Projects must meet the following requirements:

Project Specifications:

- All residential units must include both kitchen and bath facilities;
- All projects must have a minimum of 20% of the units affordable to households at 50% of area median income. Projects are not required, however, to elect the 20% at 50% set-aside.
- Rent, meals, and services must be billed separately;
- No separate Medicaid units. Market rate and subsidized units must be indistinguishable from each other in terms of physical attributes, layout, etc.
- Affordable Assisted Living developments may be licensed or unlicensed;
- Nursing homes and retirement homes are ineligible;
- Proposed locations must meet MSHDA's Site Selection Criteria, and include long-term care options on-site, nearby, or be linked to or part of a larger Continuing Care Retirement Community model of living;
- Elderly developments are exempt from the 10% Supportive Housing leasing priority

Service Requirements:

- A Service Plan in the prescribed format, along with a MOU between the owner, service agency, and property management company outlining roles & responsibilities and flexible tenant screening and selection criteria must be approved by a state interagency review team (team to be established) - has not yet been established;
- Service Plan must be developed through "Person Centered Planning" (PCP) process;
- If the proposal is within a Single Points of Entry (SPE) area, the sponsor must collaborate with and include the SPE as a partner in the application as it relates to the provision of services to Medicaid recipients;
- Proposals must offer residents the provision of three meals per day on site.
- Service Providers must meet Medicaid provider standards.
- Tenants must be afforded a choice of service providers. There shall be no prohibition against outside entities providing services in the development.
- A minimum level of optional services must be offered including: assistance with activities of daily living, housekeeping, linen and/or laundry service, transportation assistance, and coordination of daily medical needs.

Evidence of Community Support:

- Project must demonstrate involvement in the planning process by local senior citizens, senior citizen advocacy groups, aging network and community service organizations, disability network, the local Area Agency on Aging, and/or MiChoice Waiver Agent.

General Requirements:

In addition to the requirements above, all projects applying with the intent to qualify for the Underserved Populations Target Percentage as an Affordable Assisted Living project will be held to the requirements and provisions contained in the Qualified Allocation Plan and its supporting documentation including, but not limited to Addendum I, the Policy Bulletins, and the Primary Application. The project must also provide:

- Completion of an Assisted Living Housing Market Study that indicates the housing needs of low-income individuals who are elderly and have special needs in the area to be served by the project and that is completed in accordance with the Authority's guidelines.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
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POLICY STATEMENT

GROSS RENT FLOOR ELECTION

The maximum (gross) rent which a project owner can charge for a LIHTC eligible low income unit is based on the area median gross income (AMGI). Under Section 42 of the Internal Revenue Code, the gross rent for a unit cannot exceed 30 percent of the imputed income limit for a qualified low income household (50 percent or 60 percent of AMGI).

The AMGI figures are published by the Department of Housing and Urban Development and are revised on an annual basis. As the AMGI of an area changes, the rent limitation for a particular unit will change.

If the AMGI decreases, a reduction in the gross rent may be required. However, the gross rent limitation does not ever need to go below the limitation applicable for the earliest period the building (that contains the unit) was included in the determination of whether the project is a qualified low-income housing project (gross rent floor).

IRS Revenue Procedure 94-57 provides clarification on determining the effective date of the gross rent floor. It states the general rule that the gross rent floor takes effect on the date the credit agency initially allocates tax credit to a building; however, an owner may elect to have the gross rent floor take effect on a building's placed in service date.

To establish the gross rent floor effective date from this time forward, a project owner will be required to file an election statement with the Michigan State Housing Development Authority (MSHDA Form # LIHTC 023). The project owner may opt to establish the gross rent floor at either the date of allocation or at the placed in service date. This election statement must be included in the application for a Commitment of Tax Credit or the Carryover Allocation of Tax Credit, whichever occurs earlier. In any event, any election must be made prior to the placed in service date. Once this election is made, it is irreversible. Owners are not required to file any documentation with the IRS to make the election.

For those projects that have allocations but were not placed in service prior to September 23, 1994, owners may establish the rent floor for a building using either the allocation date or the placed in service date. To make this election, the project owner must complete MSHDA Form # LIHTC 023 and return to MSHDA at the earlier of October 15, 1994, or the building's placed in service date. If an owner does not make a timely election, the rent floor will be considered to have taken effect on the allocation date.

For projects which were placed in service prior to September 23, 1994, the gross rent floor date is deemed to be the date that the building was placed in service.

Michigan Department of Commerce
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
735 East Michigan Avenue – P.O. Box 30044
Lansing, Michigan 48909

GROSS RENT FLOOR ELECTION STATEMENT
LOW INCOME HOUSING TAX CREDIT

As owner of _____ located in _____,
(Name of Project) (City or Township)

_____ County, Michigan, I hereby elect the effective date of the gross rent floor
(County)

for this project to be:

date of allocation

placed in service date

(Name of Ownership Entity)

(Federal Taxpayer ID #)

(Signature of Authorized Official)

(Title)

(Typed Name of Authorized Official)

(Date)

(LIHTC Project #)

FOR MSHDA/LIHTC USE ONLY:

Date of Allocation: _____

Placed in Service Date: _____

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Compliance Monitoring Section

POLICY STATEMENT

MARRIED INDIVIDUALS LIVING APART

This policy statement is to clarify the treatment of prospective tenants of Low Income Housing Tax Credit (LIHTC) projects who are married persons but who do not plan to reside with a spouse. In some situations, the income of the prospective resident alone may be within LIHTC guidelines, but with the inclusion of the absent spouse's earnings, the household would be ineligible to reside in a restricted unit. The determination of annual income must be made in a manner consistent with the Department of Housing and Urban Development (HUD) Section 8 guidelines in HUD Handbook 4350.3. The HUD Handbook does not specifically address marital separations, however, it does state the following:

1. Spouses are counted as family members [Figure 3-6, Page 3-56]; and
2. The head, spouse, and co-head must always be listed on the 59 Data Requirements, even if they are temporarily absent [Part 3-10a(3), Page 3-15].
3. All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member;

The HUD 4350.3 discusses the following situations, which are somewhat analogous and which involve a marital separation:

- A military spouse is counted as a household member even though absent spouse is not physically residing in the unit. It further states :if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or
- The income of a household member who is confined to a nursing home can be excluded only if that person is permanently absent.

In the absence of documentation that a spouse is permanently absent, the absent spouse should be considered a "Temporarily Absent Family Member" and that spouse's income and assets must be included as part of household income. The income of permanently absent household members would not have to be included as part of household income.

Following is a non-exhaustive list of items that can be used to document that a separation is permanent:

- Divorce filing or legal separation documents
- Documentation from an attorney or legal aid office indicating that the prospective resident/tenant has filed, is pursuing or has inquired about a divorce or legal separation.
- Copy of legal restraining order or documentation that the prospective resident/tenant has experienced domestic violence
- A statement from a person who provided counseling to the tenant in an official capacity as part of his or her occupation (i.e., attorney, therapist, marriage

counselor, clergy) indicating that the separation is permanent. The statement must be sworn or prepared on the counselor's business letterhead.

- A sworn statement from the tenant indicating the following:
 - (a) The spouses operate as separate households and the absent spouse will not reside in the unit; and
 - (b) The separation is permanent.
- Legal or official documents, such as income tax forms indicating two separate residences for the spouses.

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POLICY STATEMENT

DEEPER TARGETING AND MULTIPLE AMGI LEVELS

A project must achieve a minimum threshold of low income occupancy to qualify for any Low Income Housing Tax Credit (LIHTC). At a minimum, either 20% of the units must be occupied by residents whose annual incomes do not exceed 50% of area median gross income (AMGI) or 40% of the units must be occupied by residents whose annual incomes do not exceed 60% of AMGI (as determined and adjusted annually by HUD). The income level of the set-aside (either 50% or 60%) is termed the Minimum Set-Aside AMGI. The percentage of total residential units in the project that are reserved as LIHTC units is known as the applicable fraction.

Many project owners elect to target a higher percentage of units to low income persons and/or to target a percentage of the units to persons at lower income levels than the minimum set-aside. Often, projects have multiple AMGI targeting levels. For example, a project may reserve all of its units for low income persons (a 100% applicable fraction) meeting one AMGI level or it may have 100% of units targeted for low income persons, but at several different AMGI levels. Other projects may be mixed income projects in which a portion of the units are reserved for low income persons and the remainder of the units are unrestricted. The mixture of AMGI levels that a project is targeting is termed the project mix.

An owner/manager of an LIHTC project must be aware of all tiers in the project's income limits. He or she must know what percentage of the residential units are LIHTC units and at which AMGI these units must be targeted. The owner of a project is responsible for determining which AMGI a tenant meets. To meet the 60% AMGI, a household must have an annual income that is at or below the 60% AMGI **at time of move-in** and be rent-restricted at the 60% AMGI. A household which meets the 60% criteria is deemed a "60% household". A household which meets the 50% AMGI, is deemed a "50% household", etc.

Income changes are important. In addition to certifying a household's eligibility at move-in, family income must be re-examined (recertified) at least annually. If the income of the occupants of a qualifying unit increases to more than 140% of the Minimum Set-Aside AMGI, the unit may continue to be counted as a low income unit as long as the unit continues to be rent-restricted and the next unit of comparable or smaller size in the building is occupied by a qualified low income tenant (this is known as the Next Available Unit Rule or the 140% Rule). **The Next Available Unit Rule applies separately to each building in the project.** In 100% LIHTC projects, because the next available unit is always leased to an income-eligible household, the need to replace a household only occurs when the household vacates the unit.

This policy is to clarify MSHDA's position regarding the treatment of household income increases for projects that have multiple income levels.

SECTION 1: 100% LIHTC Projects (with one AMGI Level)

As stated previously, a project must meet one of the two minimum set asides. In the simplest structured project, a project has a 100% applicable fraction, targeted to persons at the Minimum Set-Aside AMGI (i.e. 100% of the units at 60% AMGI or 100% @ 50% AMGI). A household's eligibility is determined at the time of its move-in to the LIHTC unit. A household which, for example, meets the 60% AMGI is deemed a "60% household". The household continues to be eligible after its income increases to more than 140% of the applicable income limit because the

next available unit is always leased to a household meeting the qualifying AMGI.

Some projects with 100% applicable fractions may have elected to target the units to persons with lower income levels (i.e. 100% @ 40% AMGI or 100% @ 30% AMGI). In these projects, a unit continues to qualify as an LIHTC unit even if the household's income rises above the applicable AMGI level (so long as its rent remains restricted) and even after it rises to more than 140% of the applicable AMGI level and the Minimum Set-Aside AMGI because the next available unit is always leased to an eligible household. The need to replace a household only occurs when the household vacates the unit. When the household vacates the unit, another household meeting the applicable AMGI level must replace it.

In summary, once a household is deemed as a "60% household", it is always eligible as a "60% household". A "60% household" must be replaced by a "60% household". The same is true for any other AMGI level that a project might be targeting.

SECTION 2: 100% LIHTC Projects (with multiple AMGI Levels)

In a second type of LIHTC project, all units are LIHTC units, but the project has multiple income levels at which its units are targeted. For example, a 100% LIHTC project may target a portion of its units to households at the 60% AMGI level, a portion at 50% AMGI level, and a portion at 30% AMGI level.

As in all 100% LIHTC projects, because the next available unit is always leased to an eligible household, the need to replace a household only occurs when the household vacates the unit. Thus, for example, if a "30% household's" income increases to above 140% of the Minimum Set-Aside AMGI, nothing must be done. This unit can continue to be counted as a "30% household" as long as the gross rent remains restricted at the 30% AMGI. When this or any other "30% household" vacates a unit, it must be replaced by a "30% household" (though not necessarily in physically the same unit and not necessarily in the next available unit). The project owner, however, must pay close attention to the AMGI levels of its tenants to ensure that enough units are occupied by/reserved for the appropriate income levels to meet the required percentage of units that must be targeted at each AMGI level. In other words, if 50% of the units must be targeted to persons at or below 40% AMGI and 50% at 60% AMGI, the project cannot have 51% of the units at 60% AMGI.

In summary, once a household is deemed as a "30% household", it is always eligible as a "30% household". A "30% household" must be replaced by a "30% household". The same is true for any other AMGI level that a project might be targeting.

SECTION 3: Mixed Income Projects (with one AMGI level for the low income units)

In mixed income projects, a portion of the residential units are LIHTC units and a portion of the units are market rate (unrestricted income levels and rent amounts). Owners of mixed income projects must pay close attention to the Next Available Unit Rule.

As in 100% LIHTC projects, when a “40% household” simply vacates a unit (the household’s income did not increase to more than 140% of the Minimum Set-Aside AMGI), it must be replaced by a “40% household” (though not necessarily in physically the same unit) in order for the project mix and applicable fraction to be maintained. The Next Available Unit Rule does not apply to move-outs. Unlike 100% LIHTC projects, however, in mixed income projects, if a “40% household’s” income increases to above 140% of the Minimum Set-Aside AMGI (and the household remains in the building), the next available unit in the building must be occupied by a low income household.

In summary, in mixed income projects, once a household is deemed a “40% household”, it is eligible as a “40% household” until its income increases to above 140% of the Minimum Set-Aside AMGI, at which time the next available unit rule is triggered.

SECTION 4: Mixed Income Projects (with multiple AMGI levels for the low income units)

In mixed income projects, a portion of the residential units are LIHTC units and some are market rate (unrestricted) units. Often, mixed income projects contain multiple AMGI for the LIHTC units. For example, 50% of the residential units are LIHTC, 50% are unrestricted. Of the 50% LIHTC units, 50% (25% of total project) are at 60% AMGI and 50% are at 40% AMGI. The owner of the project must pay close attention to ensure that the project mix is maintained.

When a “40% household” simply vacates a unit (the household’s income did not increase to more than 140% of the Minimum Set-Aside AMGI), it must be replaced by a “40% household” (though not necessarily in physically the same unit and not necessarily in the next available unit). When a “40% household’s” income increases to above 140% of the Minimum Set-Aside AMGI, the next available unit in the building must be rented to a low income household.

In summary, in mixed income projects, once a household is deemed as a “40% household”, it is eligible as a “40% household” until its income increases to above 140% of the Minimum Set-Aside AMGI, at which time the next available unit rule is triggered. The “40% household” must be replaced by a low income household. The same is true for all other AMGI levels a project is targeting.

NOTES:

- (1) **MSHDA’s position regarding the point at which the Next Available Unit Rule is triggered.** IRS regulations indicate that the Next Available Unit Rule is triggered when a household’s income increases to more than 140% of the qualifying income level. Since “Deeper Targeting” options are State policies, not Federal policies and since a household can qualify (in general, based on IRS policy) for an LIHTC unit if its income is less than the project’s Minimum Set-Aside AMGI, MSHDA has deemed this as the point at which the next available unit rule is triggered. The next available unit rule is not triggered until “40% household’s” income, for example, increases to more than 140% of the 60% MINIMUM - SET-ASIDE AMGI, not when it increases to more than 140% of the 40% AMGI. The Minimum Set-Aside AMGI is used as the triggering point for the next available unit rule so that the project mix can be maintained and so that a project will not have to make more than the required number of units a particular AMGI level (see Scenario D on page 4 of this policy statement for an example).

- (2) **140% Rule takes Precedence:** If a household vacates a unit, but there is another household whose income has increased to more than 140% of an AMGI level, the next available unit is triggered at that time. For example, if a “60% household” vacates a unit, but there is a “30% household” that is above 140% of the Minimum Set-Aside AMGI, the 140% rule takes precedence. The next available unit must be rented to a low income person. This new tenant must be LIHTC-eligible and ideally be a 30% household, however, it can be any AMGI level (except market rate). The over-income household can continue to be counted as a 30% household (as long as every next available unit in the future continues to be rented to a low income household) or it can be made a market rate unit or other AMGI level for which it qualified for at recertification. The owner should pay close attention to ensure that the project mix is being maintained.

- (3) **The AMGI level of a household is made at the time of certification. Once designated, the AMGI cannot be changed unless the household is recertified.** A “50% household”, for example, cannot be designated as a “40% household” unless it was recertified as meeting the 40% income restriction, and deemed as such at that time, since the proposed new AMGI level is lower than the AMGI level the household qualified for at move-in. A household can be redesignated to a higher AMGI level at move-in, regardless of new income amount. In the case of the “50% household”, it could be changed to a 60%. Recertification includes completion of a Tenant Income Certification, obtaining third party verifications, calculation of new income amount, etc. and could be either an interim or an annual recertification.

The only exception is when implementing the next available unit rule. While waiting for another unit to become available, the household whose income has increased can temporarily be counted as meeting the old AMGI. After another unit is available, the previous household’s AMGI level can be changed at that time.

- (4) **One AMGI level only.** To meet a particular AMGI, a household must have a certified annual income that is less than or equal to that amount. Therefore, a household at 30% AMGI could also meet the 40% AMGI, 50% AMGI, and 60% AMGI, but not vice versa. A household, however, can be deemed as one AMGI only. A household cannot, for example, be simultaneously deemed or treated as a “30% household” and a “40% household”.

- (5) **AMGI changes are optional.** Changing a household’s AMGI level is optional and is not mandated by MSHDA. The 140% income limit is not used in determining whether or not the household can be converted to a different AMGI limit.

- (6) A household can be made a market rate unit at recertification (provided the project is a mixed income project with unrestricted units), regardless of its income amount and regardless of whether or not it would qualify at an AMGI the project is targeting. MSHDA has no requirement that a specific household be made or retained as an LIHTC household. If a household is changed to a market rate tenant, it may have to be replaced by a household meeting the old AMGI level in order to maintain the project mix and/or applicable fraction.

- (7) This policy statement is intended to be used for LIHTC purposes only. Project owners should check with its financing sources to determine if it has additional constraints.

(8) The following are scenarios:

Minimum Set-Aside = 40% @ 60%, Applicable Fraction = 50%. Next Available Unit Rule is triggered at \$25,200.		
% of Total Units	Area Median Gross Income	Current Max. Allowable Income for One Person
50% of units	Market Rate	N/A
20% of units	60% AMGI	\$18,000
10% of units	50% AMGI	\$15,000
10% of units	40% AMGI	\$12,000
10% of units	30% AMGI	\$9,000

Scenario A: Tenant A moved in to Unit #25 as a “30% household”. One year later at recertification, its income has increased to \$13,500 (the next available unit rule is not triggered until \$25,200). At the time of completion of the recertification, the tenant in Unit #25 can continue be counted as “30% household” as long as its rent is restricted at 30% AMGI (\$225 maximum). As an alternative, Tenant A can be designated as either a “40% household,” a “50% household” or a “60% household” or it can be made a market rate unit. If the AMGI level of Tenant A is changed, it must be replaced by another “30% household” in order to maintain the project mix.

Scenario B: Tenant B moved into Unit #38 one year ago as a “40% household”. Upon annual recertification, it is determined that Tenant B’s income has now increased to \$26,000 (more than 140% of the Minimum Set-Aside AMGI). Tenant B can continue to be counted as a “40% household” as long as its rent is restricted to the 40% AMGI, however, the next available unit must be rented to a “40% household”. After the next available unit is rented to a “40% household”, Tenant B can be converted to a market rate unit.

Scenario C: Tenant C moved into a LIHTC unit with an annual income of \$5,675 and was designated as a “30% household”. At recertification, the household’s income increased to \$20,000. Since \$20,000 is less than \$25,200 (140% of the Minimum Set-Aside AMGI), the next available unit rule is not triggered. The household can continue to be counted as a “30% household” as long as its rent is restricted at that level or it can be made a “40%, 50%, or 60% household” or it can be made a market rate unit.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Compliance Monitoring Section

POLICY STATEMENT

**PROHIBITION AGAINST APPLYING MINIMUM INCOME REQUIREMENTS
FOR PROSPECTIVE SECTION 8 RECIPIENTS**

IRC Section 42(h)(6)(B)(iv) prohibits refusing to lease to a Section 8 voucher or certificate holder simply because that person is such a holder. Leasing policies that discriminate or have the effect of excluding a large portion of Section 8 tenants are prohibited.

The Section 8 Existing certification and voucher programs provide for the monthly payment of a portion or all of the rent for its recipient. The risk of economic loss for owners/managers as a result of non-payment of rent is substantially reduced. The incomes of voucher and certificate holders must meet the HUD Section 8 guidelines in order to be eligible to participate in that program. Owners/managers may not establish minimum incomes for Section 8 applicants as a requirement for occupancy in an LIHTC development.

MSHDA's policy against imposing minimum income requirements applies only to Section 8 recipients and does not prohibit such restrictions for non-Section 8 tenants. A Section 8 household cannot be denied residency simply for its status as such or for failure to meet a development's minimum income requirement; however, a household can be denied residency if it fails to meet any other consistently applied screening criteria (e.g. criminal background, eviction history, credit rating).

This policy applies to all LIHTC projects and is effective immediately.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

NON-CUSTODIAL CHILDREN AS HOUSEHOLD MEMBERS

In some situations, a child may be cared for by a person who does not have legal custody or guardianship of him or her and spend a substantial amount of time with that caretaker. These care arrangements can be temporary, of unknown duration, sporadic (the child lives there only sometimes) and/or “at-will” (the guardian can remove the child from the household or the caretaker can end the arrangement at any time). A “non-custodial” child is an individual under the age of 18 who is not emancipated, not residing in a unit with his or her parent or legal guardian, and not in the process of being adopted or for whom legal custody or guardianship is not in the process of being obtained. There are two issues related to non-custodial children:

- (1) income-eligibility of the household, and
- (2) occupancy in a restricted unit.

“Non-custodial children” is a topic that is not specifically or adequately addressed in the HUD 4350.3. Until specific guidance is provided by HUD or the IRS, non-custodial children should be treated according to the rules provided for foster children, which are the most analogous situation discussed in the HUD 4350.3. Similar to foster children, they cannot be included for purposes of determining the income-eligibility of the household. However, in accordance with the Fair Housing Act (discussed below), non-custodial children are permitted to reside in the restricted unit.

(1) Income Eligibility

A determination must be made as to whether or not to count the child as a household member for income-eligibility purposes. In some instances, a tenant (or owner/management agent of an LIHTC project) will attempt to count the child as a household member simply to use a higher income limit based on the larger family size or in order to meet a full-time student prohibition exception. In some cases, the household would not be eligible to reside in an LIHTC unit without the inclusion of the child. To promote consistency in determining who to count as a household member and who cannot be included, a child who does not reside with his or her legal custodian and whose legal permanent residence is someplace other than the LIHTC unit, should **not** be counted as a household member for purposes of determining the income-eligibility of the household. The child should be counted as a guest or as part of an “unofficial” foster care arrangement. Neither guests nor foster children can be included as household members for income-eligibility purposes {*HUD Handbook 4350.3, Figure 3-6*}.

In order to count a child who is under the age of 18 and not an emancipated minor as a household member for income-eligibility purposes, the LIHTC unit must be the child’s permanent residence and another member of the household (who is listed on the lease and/or the CTE 320) must meet one of the following criteria:

- (1) Have legal custody or guardianship of the child (as can be documented by court papers). The child may also be counted as a household member for income-

- eligibility purposes in situations in which an adult is awaiting a decision from a court regarding custody or guardianship if this can be documented with legal papers {*HUD Handbook , Appendix 11, Item 19A*}. A situation in which an adult “intends” to pursue custody but has not yet done so is not adequate to establish eligibility; or
- (2) Have claimed the child as a dependent on the most recently filed tax return (as can be documented by the tax return) and anticipate claiming the child as a dependent for the present calendar year; or
 - (3) Be in the process of adopting the child (as can be documented by court papers).

Ex: *The Smith family, which consists of two adults, are prospective residents in an LIHTC development. The Smiths have a seven month old grandchild who they have been caring for since birth. The mother and father of the child (neither of whom will live in the tax credit unit) are willing to sign a notarized statement (probably not legally binding in this situation) indicating that the living arrangement is unlikely to change in the next twelve months. The grandparents anticipate claiming the child as a dependent for the present calendar year. Since the grandparents do not have official legal custody or guardianship, are not in the process of adopting the infant, and have not yet claimed the infant as a dependent on their tax returns, the grandchild cannot be counted as a household member for purposes of determining eligibility to reside in the unit. The income-eligibility of the Smiths must be evaluated based on a two, not three, person family size. If the grandchild is claimed as a dependent for tax purposes this year by the grand parents for this calendar year and he or she continues to reside in the unit, the child can be counted as a household member the following year.*

Documentation of legal custody, guardianship or dependency status should be obtained for any child whose mother or father does not reside in the LIHTC unit if the tenant is attempting to count the child as a member of the household for income-eligibility purposes. It is not necessary for the owner/management agent to document custody or guardianship of children who reside in the unit with a parent (unless there is reason to believe that the child is not eligible to be counted as household members).

(2) Occupancy

The residency aspect of non-custodial children is discussed in The Fair Housing Act. The Fair Housing Act (Title VIII of the Civil Rights Act, 42 U.S.C. 3601) is a statute that, in part, prohibits discrimination based on familial status in most housing and housing-related transactions. The Fair Housing Act defines “familial status” as one or more individuals (who have not attained the age of 18 years) domiciled with:

1. A parent or another person having legal custody of such individual or individuals (regardless of age or number of children); or
2. The designee of such parent or other person having such custody, with the written permission of such parent or another person.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

COMMON AREA UNITS

IRS Revenue Ruling 92-61, which has an effective date of September 9, 1992, discusses the provision for including employee-occupied units within Housing Tax Credit (HTC) projects. To summarize the ruling, it may be permissible for a manager, assistant manager, or other employee of the owner to reside in a unit within a project. An employee can reside in a unit that is designated as common area or in a rental unit. A “**common area unit**” is a unit used for residential purposes, and does not include any units or space used as an office, storage, model apartment or for any other non-residential purpose. It supports and/or is reserved for the benefit of all the rental units. Under this interpretation, the unit is excluded from the low income occupancy calculation and the unit can be used by the manager without concern as to the effective rent being charged to or the income level of the manager. If this option is elected, the unit occupied by the resident manager is included in the building’s eligible basis, but excluded from the applicable fraction for the purposes of determining the building’s qualified basis. In order for a household to be eligible to reside in a unit that is designated as a common area unit, the head of household (or co-head) must be a full-time employee at the particular development. Persons who are employed less than full-time and persons who are employed at multiple projects (such as regional managers) at the development are not eligible to reside in a common area unit.

An employee could also reside in a unit that is designated as an **HTC residential unit**. All tenants, including employees of the development, occupying HTC rental units that are not “common area” must be certified as income-eligible, rent-restricted, and under a lease with an initial term of at least six months. As will be discussed later in this policy statement, the full amount of any rent concessions given the employee must be included as income for HTC purposes.

DESIGNATING A UNIT AS COMMON AREA

When completing the final allocation (Placed in Service) application, the owner must indicate whether or not the project will contain a common area unit(s). MSHDA reviews the unit configuration and determines whether or not to approve the common area unit. The Regulatory Agreement/Restrictive Covenant is then prepared and recorded indicating the unit configuration. The owner must designate a specific unit(s) as common area. The designation is made by completing a Common Area Unit Designation Statement (LIHTC Form #047). This form is completed and submitted with the first annual certifications prepared for the project. The owner must identify the unit number (along with the square footage and number of bedrooms) and the address of the building in which the common area will be. If the option to designate the employee unit as a low income rental unit is selected, the appropriate monitoring fee must be paid for this unit(s).

Once designated, the project’s configuration cannot be changed without prior written approval from the HTC Section of MSHDA.

ONE CHANGE PER SIX (6) MONTH PERIOD

Requests to change the number of or location of the common area unit(s) in the project must be submitted to the HTC Section of MSHDA in writing by the owner or with the owner's acknowledgement (not the management agent) of the project. The request must indicate what type of change is being requested and to which unit(s). Along with the request, a revised Common Area Unit Designation Statement must be submitted. Requests to change the designation may be made at any time during the year (not solely as part of the annual compliance certification submission process), however, only one change in the common unit(s) designation will be considered by MSHDA during any six(6) month period for any one project. For example:

Michigan Villas is an HTC project that contains three buildings and two common area units. The owner of the project requests that the location of one of the common area units be changed to a different building. MSHDA reviews the request and approves it in writing to the owner in a letter dated June 21, 1998. The project will not be eligible to make any other designation changes (of any type) to any units in the project until January 21, 1999 or after.

RENT CONCESSIONS MUST BE COUNTED AS INCOME:

If the HUD Handbook does not specifically exclude a particular source of monies as income, it must be included, even if this may conflict with income tax laws {*HUD Handbook Section 2, Subsection 3-9(a) and 26 CFR 1.42-5 (b)(vii) - Tax Credit Compliance Monitoring Regulations*}. Thus, if the manager or employee receives free rent or a rent discount, the full imputed value of the rent or discount must be counted as income. This applies whether or not living on-site is optional or mandatory for the employee. For additional information regarding certifying incomes of tenants, see the Michigan HTC Compliance Manual.

In valuing the rent concession and determining how much should be included as income for employees living in HTC (non-common area) units, the amount should be the amount of rent that an HTC household living in the unit would pay rent plus the applicable utility allowance. For example:

Brenda recently accepted a position with Michigan Villas as a resident manager. Her compensation is \$15,000 annual, plus she will receive a free residential unit at the development, which contains 100 units and has an applicable fraction of 100%, which does not include any common area units. The usual rent for her apartment is \$400 per month. Her total compensation for LIHTC purposes will be \$19,800 (\$15,000 salary plus \$4,800 in rent concessions). In order for Brenda to be eligible to reside in an HTC unit (non-common area), the maximum allowable income must \$19,800 or higher.

For employees residing in common area units, the value of the rent concession does not have to be counted as income (since the employee can reside in the common area unit without regard to the income of the household).

LIHTC Compliance Policy # 7
June 2008

In projects with multiple Area Median Income targeting levels for its HTC units (i.e deeper targeting), the lower level(s) of income requirements must be satisfied with non-common area tenants. For example:

Michigan Villas has a total of 100 residential units. Of those 100 total, 70 must be occupied at 60% AMI and 30 units at 20% AMGI. If the project includes a common area unit, it must be one of the 60% AMGI units. Thirty units must always be maintained at the 20% AMGI level.

Any changes without prior written approval from the HTC Section will be deemed as potential noncompliance and reported to the IRS. All requests for changes must be submitted to MSHDA in writing by the owner or with the owner's acknowledgement, not the management agent.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

COMPLIANCE MONITORING FEE FOR TAX-EXEMPT PROJECTS

EFFECTIVE JUNE 17, 2008

Effective with the issuance of MSHDA's 2008 Qualified Allocation Plan, compliance monitoring fees are as follows: All units for which an allocation of credit was not made by June 16, 2008 must pay the sum of \$450 per low income unit, which amount will cover the entire 15 year monitoring period and the extended use period and is payable prior to issuance of Form 8609.

All projects that received an Allocation of credit prior to June 17, 2008 were allowed to pay \$300 per low income unit regardless of the placed in service date.

Several projects that are financed with tax-exempt bonds received a Reservation of credit prior to June 17, 2008. Because the tax-exempt financed projects are subject to Section 42(h)(4) which exempts tax-exempt projects from the carryover requirement, and a Carryover Allocation can be issued only during the month in which the bonds were sold, only a Reservation and Commitment of tax credit were issued for these projects.

The Authority understands that the projects would have obtained a Carryover Allocation if necessary, and thus, will allow tax-exempt projects which received a Reservation and/or Commitment of tax credit prior to June 17, 2008, and which have been progressing toward completion with no interruptions, to pay \$300 per low income unit regardless of the placed in service date.

EFFECTIVE JANUARY 1, 2001

On January 1, 2001, the following compliance monitoring fees became effective: All units for which an allocation of credit was not made by December 31, 2000 must pay the sum of \$300 per low income unit, which amount will cover the entire monitoring period and is payable prior to issuance of Form 8609.

All projects that received an Allocation of credit prior to January 1, 2001 were allowed to pay \$175 per low income unit regardless of the placed in service date.

Several projects that are financed with tax-exempt bonds received a Reservation of credit prior to January 1, 2001. Because the tax-exempt financed projects are subject to Section 42(h)(4) which exempts tax-exempt projects from the carryover requirement, and a Carryover Allocation can be issued only during the month in which the bonds were sold, only a Reservation and Commitment of tax credit were issued for these projects.

The Authority understands that the projects would have obtained a Carryover Allocation if necessary, and thus, will allow tax-exempt projects which received a Reservation and/or Commitment of tax credit prior to January 1, 2001, and which have been progressing toward completion with no interruptions, to pay \$175 per low income unit regardless of the placed in service date.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
Low Income Housing Tax Credit Program

POLICY STATEMENT

FEE SCHEDULE

The following schedule of fees applies to all LIHTC projects that apply for credit under the 2008 Qualified Allocation Plan:

Schedule of LIHTC Fees	Fee Amount	Report Fees Paid on the Project Const form as:
Application fee	\$40 per low income unit, maximum \$2,000	Tax Credit fees
Change of Ownership	2% of annual credit amount	Tax Credit fees
Changes in 8609 due to owner error/omission	\$50 per 8609	Tax Credit fees
Changes in lots being used for scattered site projects	\$250 per lot	Tax Credit fees
Compliance Monitoring fee	\$450 per low income unit	Compliance fees
Correction of significant and repeated noncompliance issues	\$50 per unit	Compliance fees
Exchange of credit	5% of annual credit amount	Tax Credit fees
Interim underwriting modifications	\$500	Tax Credit fees
Late fees for not paying fees within stipulated time, or not meeting "Conditional Go" deadlines	\$50 per day late	Tax Credit fees
Market study fee	Contact MSHDA's Chief Market Analyst for fee amount	Marketing Study
Non-sufficient fund check	\$100	Tax Credit fees
Tax Credit Reservation fee	6% of annual credit amount	Tax Credit fees
Waiver of Commitment deadlines	5% of annual credit amount	Tax Credit fees
Waiver of HUD 221(d)(3) limits (submit request prior to application)	\$500	Tax Credit fees
Site visits – subsequent to initial visit	\$500	Tax Credit fees

All waiver requests must be submitted in writing.