

# WASHINGTON STATE HOUSING FINANCE COMMISSION LOW-INCOME HOUSING TAX CREDIT PROGRAM *RULES*

## **WAC 262-01-110 Contents of the qualified allocation plan.**

(1) The Commission shall adopt a qualified allocation plan as required under section 42 of the code (the “plan”), which shall:

- (a) Set forth selection criteria to be used to determine housing priorities of the Commission which are appropriate to local conditions;
- (b) give preference in allocating housing credit dollar amounts among projects that:
  - (i) Serve the lowest income tenants;
  - (ii) are obligated to serve qualified tenants for the longest periods; and
  - (iii) are located in qualified census tracts and the development of which will contribute to a concerted community revitalization plan; and
- (c) provide a procedure which the Commission shall follow in monitoring projects for noncompliance and for notifying the Internal Revenue Service of such noncompliance and in monitoring for noncompliance with habitability standards through regular site visits.

(2) The plan shall include the following selection criteria among others, for allocating housing credit dollar amounts: Project location, housing needs characteristics, project characteristics (including whether the project includes the use of existing housing as part of a community revitalization plan), sponsor characteristics, tenant populations with special needs, use of public housing waiting lists, tenant populations of individuals with children, projects intended for eventual tenant ownership, project feasibility, and viability as a low-income housing project.

[Statutory Authority: RCW 43.180.040, 93-01-122, § 262-01-110, filed 12/21/92, effective 1/21/93.]

## **WAC 262-01-120 Procedures for adopting the plan.**

- (1) Before adoption of the plan, the Commission shall hold at least one public hearing after giving at least fourteen days notice to the public by means of publication in a newspaper of general circulation. The plan shall thereafter be adopted by resolution at a special meeting of the Commission, under the procedures described in WAC 262-01-040. Public comment shall be received in writing any time up to the commencement of the special meeting, and verbal comments shall be received at all public hearing(s).

- (2) The plan as adopted by the Commission shall become effective upon approval by the governor. Once approved by the governor, the plan shall be made available for public review under the procedure outlined in WAC 262-01-050.
- (3) The Commission may amend the plan from time to time by resolution, through the procedure described above. The plan shall be amended from time to time so as to ensure that tax credit allocations comply with the requirements of the code and treasury regulations promulgated thereunder, as amended and in effect from time to time.
- (4) The Commission shall make copies of the plan available upon request directed to the Washington State Housing Finance Commission, 1111 Third Avenue, Suite 2240, Seattle, WA 98101.

[Statutory Authority: RCW 43.180.040[http://search.leg.wa.gov/wslrcw/RCW\\_43\\_TITLE/RCW\\_43.180\\_CHAPTER/RCW\\_43.180.040.htm](http://search.leg.wa.gov/wslrcw/RCW_43_TITLE/RCW_43.180_CHAPTER/RCW_43.180.040.htm), 93-01-122, § 262-01-120, filed 12/21/92, effective 1/21/93.]

### **WAC 262-01-130 Tax Credit Program.**

- (1) Applicants for tax credit shall submit a completed application in the form prescribed by the Commission and the required application fee by the deadlines set by the Commission each year. The Commission will not accept additional information or material changes to an application except as allowed during a prescribed correction period.
- (2) As part of its application, each applicant shall submit, among other things:
  - (a) Its federal identification number or, if the applicant is an individual, its Social Security number;
  - (b) Evidence that it has control of all land necessary for completion of the project;
  - (c) A comprehensive market study of the housing needs of low-income individuals in the area to be served by the project;
  - (d) If applicable, a relocation plan for residents approved by the appropriate governmental authority;
  - (e) Evidence that the project is consistent with the applicable state or local consolidated plan;
  - (f) A written commitment to notify the relevant local public housing authority of the availability of units in the project;
  - (g) Evidence of the financial capacity and experience of the development team; and
  - (h) Evidence of the experience of the property management team.
- (3) (a) The Commission will rank projects proposed by tax credit applicants based upon the degree to which they meet the criteria set forth by the Commission in

subsection (5) of this section. The Commission may decline to consider a project that fails to meet minimum standards established by the Commission for such an evaluation.

- (b) Notwithstanding applicant characterization, the Commission may determine the scope of or otherwise define a "project" or "projects" for purposes of ranking applications and reserving and allocating tax credit.

(4) In order to qualify to receive tax credit, a project shall meet all of the requirements of section 42 of the code:

(5) For the purposes of ranking projects and allocating credit dollar amounts, the Commission will give preference to projects that serve the lowest income tenants, that are obligated to serve low-income tenants for the longest periods, and that are located in qualified census tracts and the development of which will contribute to a concerted community revitalization plan. In determining housing priorities, the Commission will consider sponsor and project characteristics. The Commission will give weight to those projects which, among other things:

- (a) Are located in areas of special need as demonstrated by location, population, income levels, availability of affordable housing and public housing waiting lists;
- (b) Set aside units for special needs populations, such as large households, the elderly, the homeless and/or the disabled;
- (c) Preserve federally assisted projects as low-income housing units;
- (d) Rehabilitate buildings for residential use;
- (e) Include the use of existing housing as part of a community revitalization plan;
- (f) Have received written authorization to proceed as a United States Department of Agriculture - Rural Housing Service multifamily new construction project approved by the Commission;
- (g) Are historic properties;
- (h) Are located in targeted areas
- (i) Leverage public resources;
- (j) Maximize the use of credits;
- (k) Demonstrate a readiness to proceed;
- (l) Serve tenant populations of individuals with children;
- (m) Are intended for eventual tenant ownership; and

- (n) promote energy efficiency
- (6) (a) The Commission will reserve at least ten percent of the state housing credit ceiling for a calendar year for projects in which qualified nonprofit organizations have an ownership interest and materially participate in the development and operation of the projects throughout the compliance period, all as described in the Code. A qualified nonprofit organization is an organization described in section 501 (c)(3) or (4) of the Code, which is determined by the Commission not to be affiliated with or controlled by a for-profit organization and one of whose exempt purposes includes the fostering of low-income housing.
- (b) The Commission may also reserve a portion or portions of its state housing credit ceiling for other types of projects or sponsors.
- (7) The Commission will determine the amount of tax credit necessary for the project's financial feasibility and viability as a qualified low-income housing project. The Commission will not allocate or award to a project more than the minimum amount of tax credit required to ensure a project's financial feasibility and viability.
- (8) The Commission may:
- (a) Restrict the maximum amount of development costs on a per unit basis;
  - (b) Limit the maximum rehabilitation contingency and the maximum construction contingency;
  - (c) Restrict the maximum annual amount of tax credit for each low-income housing unit;
  - (d) Establish a maximum amount of credit an applicant may receive;
  - (e) Establish a maximum amount of tax credit a project may receive;
  - (f) Establish maximum developer fees and consultant fees; and
  - (g) Limit the amount of contractor's profit and overhead.

The Commission may also limit the amount of credit received or establish other limits for other reasons.

- (9) (a) As a condition of receiving tax credit, an applicant shall enter into agreements with the Commission, in forms acceptable to the Commission, which contain the terms under which the Commission reserves credit for a project and, if applicable, provides a carryover allocation for a project.
- (b) As a condition to receiving tax credit, an owner shall enter into an extended use agreement with the Commission, in a form acceptable to the Commission, which

restricts the use of the project for a minimum of thirty years and which describes the applicable commitments and covenants made by the owner. The extended use agreement shall be recorded in a first lien position as a restrictive covenant running with the land.

(10) In order to qualify for a carryover allocation, an applicant shall demonstrate, among other things, that:

- (a) The applicant has either acquired the land or has a long term lease on the land;
- (b) The applicant's basis in the project is more than ten percent of the applicant's reasonably expected basis in the project; and
- (c) The applicant has received a conditional commitment for financing.

(11) An applicant that has received a carryover allocation of tax credit shall demonstrate to the Commission's satisfaction that the applicant has made substantial progress towards completion of the project.

(12) An applicant shall demonstrate to the Commission's satisfaction substantial compliance with all contractual obligations to the Commission before the Commission issues an Internal Revenue Service low-income housing credit certificate.

(13) Unless the Commission makes an exception, a transfer of an interest in a project shall require the prior approval of the Commission. A transfer or assignment without the Commission's prior approval may result in a cancellation of tax credit for a project.

(14) To participate in the tax credit program, an applicant shall pay all required Commission fees and comply with all applicable requirements and deadlines. Failure to do so may result in disqualification or cancellation of the project, application or tax credit reservation, allocation or award.

(15) For purposes of awarding tax credit, certain rules in this section do not apply to tax credit projects financed with tax-exempt bonds.

(16) (a) The Commission may perform on-site inspections of projects, interview residents, review residents' applications and financial information, and review an applicant's or an owner's books and records. The applicant or owner shall provide the Commission with all requested documentation, including periodic reports and certificates; shall provide the Commission access to the project; and shall retain records as required by the code and the extended use agreement.

(b) The Commission will monitor compliance of the projects receiving credit with the Code and with contractual commitments to the Commission. The Commission will notify the Internal Revenue Service when instances of noncompliance come to its attention.

[Statutory Authority: RCW 43.180.040(3). 97-20-086, § 262-01-130,