



GOVERNMENT OF PUERTO RICO  
PUERTO RICO HOUSING FINANCE AUTHORITY

# **LOW-INCOME HOUSING TAX CREDIT PROGRAM 2024 QUALIFIED ALLOCATION PLAN**

**PUERTO RICO HOUSING FINANCE AUTHORITY**

*Rev. September 2024*

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## FOREWORD

Consistent with the public policy of the Commonwealth of Puerto Rico (**Commonwealth** or **Puerto Rico**), the Puerto Rico Housing Finance Authority (**Authority** or **PRHFA**) is tasked with providing public and private housing developers with interim and permanent financing for the construction, improvement, operation, and maintenance of rental housing for low- and moderate-income families in Puerto Rico. PRHFA's role as the Commonwealth's administrator (or "housing credit agency") for the Low-Income Housing Tax Credit (**LIHTC** or **Tax Credit**) program is integral to that mission.

### *The LIHTC Program*

The LIHTC program was created pursuant to the Tax Reform Act of 1986 and is codified in §42 of the U.S. Internal Revenue Code (**Section 42**) (See Annex A). The program is designed to encourage new construction and rehabilitation of buildings as rental housing for households with incomes at or below specified levels. Congress recognized that a private sector developer may not receive enough rental income from a low-income housing project to cover the costs of development and still provide a return to investors sufficient to attract the needed equity investment. Thus, the LIHTC program provides tax incentives for investors to make such equity investments. In exchange for equity, investors receive tax credits and other tax benefits associated with ownership of the project to offset federal income taxes for a ten-year period. These tax benefits, plus the possibility of cash proceeds from the eventual sale of the project, represent the investors' return on investment.

Under the LIHTC program, the project owner agrees to provide low-income housing for at least thirty years. In exchange for this investment in low-income housing, the owner will receive tax credits for each of ten years, which is known as the "credit period." To keep the credit, the owner must provide low-income housing for fifteen years, which is known as the "compliance period." Failure to maintain the housing in compliance with Section 42 requirements for the entire compliance period can result in the recapture of a portion of the credit allowable in prior years. After IRS jurisdiction ends, the housing credit agency has sole jurisdiction, and the owner must continue to provide low-income housing for at least another fifteen years. This "extended use period" is *at least* 30 years, beginning with the first year of the credit period.

The LIHTC program is designed to subsidize either 30 percent or 70 percent of the low-income unit costs in a project. The 30 percent subsidy, which is commonly known as "4% LIHTC" or the "4% Tax Credit," covers construction or rehabilitation costs, or the acquisition cost of existing buildings; projects financed with 4% LIHTC often require significant additional subsidy to be feasible. The much deeper 70 percent subsidy, the "9% LIHTC" or "9% Tax Credit," supports new construction or rehabilitation (but not acquisition costs), often with limited need for additional subsidy.

### *The Qualified Allocation Plan*

Federal law mandates that housing credit agencies adopt plans for the allocation of Tax Credits among qualified low-income housing projects. This 2024 Qualified Allocation Plan (**2024-QAP**) is the official Tax Credit allocation plan for the Commonwealth of Puerto Rico. Accordingly, it describes the application and selection process to obtain an allocation of LIHTC—either through the competitive selection criteria for 9% LIHTC or the allocation of 4% LIHTC to projects financed with tax-exempt obligations subject to the

annual private activity bond (**PAB**) volume cap limitations under Section 146 of the Internal Revenue Code. While projects applying for a 4% LIHTC allocation are not subject to the competitive selection process, they must meet the minimum Basic Threshold and Point Evaluation requirements described herein (see Section 9 for further details).

In addition to serving as the Commonwealth's federally mandated tax credit allocation plan, this 2024-QAP describes the scoring system by which other funds controlled by PRHFA will be allocated to LIHTC projects in support of the Authority's mission. Such additional funds, which will be the subject of one or more forthcoming Notices of Funding Availability (**NOFA**), are expected to be available pursuant to the following programs (**Gap Subsidy Programs**):

- Leverage for Low-Income Housing Tax Credits Program (**LIHTC-MIT**),
- HOME Investment Partnerships Program (**HOME**),
- HOME Investment Partnerships ARP Program (**HOME-ARP**), and
- National Housing Trust Program (**HTF**).

Projects applying for these funds will be evaluated based on the Point Scoring Criteria used to evaluate LIHTC applications described in Section 5.4.2 below, and reviewed under joint underwriting criteria compatible with the 2024-QAP, in order to maximize the use of public and private funds channeled to affordable rental projects that meet the housing needs and goals established in the Puerto Rico State Housing Plan (see Exhibit FF) and the plans for the Gap Subsidy Programs. Nonetheless, no representation or guideline contained in the NOFA or in such plans is intended to, nor statutorily able to, modify or supersede the Authority's responsibility to comply with Section 42 requirements.

### ***Housing Goals and Priorities***

The funds available under both the LIHTC program and the Gap Subsidy Programs will be prioritized for projects that help meet the goals described in the Puerto Rico State Housing Plan, as well as the following important priorities:

Disaster Recovery and Risk Mitigation. Fragility in the low- and moderate-cost housing market has come to full exposure as a result of Hurricanes Irma and María. The degree of damage caused by the hurricanes was worsened by widespread destruction of inadequate housing structures and damage to unoccupied, unmaintained homes. It has been estimated that anywhere from forty-five percent (45%) to fifty-five percent (55%) of Puerto Rican households have either erected or maintained houses through an informal, self-managed method of construction completed without the use of a Registered Architect or Professional Engineer, without proper permits, and often in non-conformance with land-use codes. This type of construction reduces the structural integrity of homes to withstand natural environmental conditions and renders them ineffective to withstand hurricane conditions.

A reality of the market is that cost-burdened households face exacerbated challenges in the search for safe, affordable housing. There are more than 14,500 tenant households and more than 13,300 owned homes that are overcrowded by one (1) or more persons. With compounded factors including overcrowding, thousands of financially overburdened households, an aging population, and outmigration of residents under forty (40) years of age, the need for comprehensive recovery is critical.

Demand for high-quality affordable rental housing has increased with economic challenges. As of September 22, 2021, the Federal Emergency Management Agency (**FEMA**) has allocated funds for over 8,500 projects as a result of Hurricane María. Of these, more than 6,600 are permanent work projects. To date, more than \$25 billion in FEMA funds move the island's recovery forward. In the rental market recovery, there is a strong need to formalize the Island-wide rental market reporting and housing standard compliance. More than seventy-six percent (76%) of the Island's rental stock was constructed before 1990. Buildings impacted by the hurricanes will need to be addressed with a focus on resilience.

Further, Puerto Rico faces an increased need for affordable rental housing stock in the aftermath of Hurricanes Irma and María, Tropical Storm Isaias, the Earthquakes of 2019 and 2020, the Coronavirus pandemic, and severe storm and flooding events of September 13, 2020. The substantial reduction in available housing units caused by these storms and other events, combined with a surge of displaced residents in need of housing, represents a major hindrance to long-term recovery. Incentives are required to spur development and replenish the current inventory of new or rehabilitated, resilient, and affordable rental housing.

Assistance with Homelessness and Severe Housing Problems. In 2023, PRHFA evaluated the housing resources and needs of various vulnerable populations in the Commonwealth, including people experiencing homelessness and severe housing problems. People with severe housing problems include those at risk of homelessness; those fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; and other populations where providing supportive services or similar assistance would prevent homelessness or would serve those with the greatest risk of housing instability. This analysis found that there is a current need in the Commonwealth for:

- 1,685 housing units and 1,872 beds to serve homeless adults,
- 51 housing units and 154 beds to serve homeless families, and
- 71,360 rental units—47,165 restricted for households earning up to 30% of area median income (**AMI**) and 24,465 restricted for households earning between 30% and 50% of AMI—to serve people with one or more severe housing problems.

Assistance for Very Low- and Extremely Low-Income Households. In addition to serving the needs of low- and moderate-income households, PRHFA recognizes the critical need to provide deeper affordability to serve very low- and extremely low-income households and seeks to assist projects that provide such affordability. In service of that goal, the Authority operates the HOME and HTF programs to provide gap financing for projects with income restrictions at 30% to 65% of AMI.

### ***Funding Available***

IRS Revenue Procedure 2023-24 established the 2024 9% Tax Credit to be the greater of the annual per capita tax credit of \$2.90 per habitant or \$3,360,000. The population of Puerto Rico for 2024 is 3,205,691, based on IRS Bulletin 2024-12 dated March 18, 2024. The 2024 annual per capita cap multiplied by the population of Puerto Rico represents \$9,296,504 in annual 9% Tax Credits. Based on the foregoing, the total 9% Tax Credits available for allocation in 2024 represents \$9,296,504 annually, for a total of \$92,656,040 over the ten-year credit period, of which 10% is reserved for the Nonprofit Set-Aside (described in Section 4.3.1 below). Along with the 2024 per capita 9% Tax Credits, the Authority plans to make available with this 2024-QAP forward commitments of the 2025 and 2026 per capita 9% Tax Credits.



As noted herein, the availability of 4% Tax Credits is not determined by the tax credit ceiling described above. Instead, availability of such is determined by PAB volume cap limitations under Section 146 of the Internal Revenue Code as well as the PAB volume cap allocation decisions of the Commonwealth.

In addition to the Tax Credits available, PRHFA expects to allocate more than \$150 million under the Gap Subsidy Programs. Under the Community Development Block Grant Mitigation Program (**CDBG-MIT**), the Puerto Rico Department of Housing (**PRDOH**) has set-aside an allocation of \$100 million in CDBG-MIT funds for the redevelopment, conversion, rehabilitation, and/or reuse of industrial and commercial properties into low- and moderate-income housing projects. These funds will be disbursed pursuant to the LIHTC-MIT Program. The Authority and PRDOH intend to leverage Tax Credits to extend the impact of CDBG-MIT funding with the aim to preserve, rehabilitate, redevelop, and/or replace the inventory of low- and moderate-income housing units.

PRHFA has also received an allocation of HOME-ARP funds, \$32 million of which it expects to award to help produce or improve affordable rental housing units for persons experiencing homelessness; those at risk of homelessness; those fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; and other populations where such assistance would prevent homelessness or serve those with the greatest risk of housing instability. These funds are available under a separate Request for Application process in coordination with the 2024 QAP.

Finally, other funds managed by the Authority—including funds provided under the HOME and HTF programs (approximately \$25 million and \$700,000, respectively)—will be made available pursuant to a NOFA to assist very low- and extremely low-income households. See Exhibit II for additional details on these programs.

***The Authority welcomes both for-profit and nonprofit developers to apply for funding to help meet the Commonwealth's affordable housing needs. All procedural and substantive criteria contained in the 2024-QAP supersede any criteria published in previous allocation plans.***

**PUERTO RICO HOUSING FINANCE AUTHORITY  
A SUBSIDIARY OF THE GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO  
STATE HOUSING CREDIT AUTHORITY**

**2024**

**Low-Income Housing Tax Credit Program Qualified Allocation Plan**

**1. Legislative Requirements for the State Qualified Allocation Plan (2024-QAP)**

The Omnibus Budget Reconciliation Act of 1989 mandated that housing credit agencies adopt plans for the allocation of the Tax Credits among qualified low-income housing projects. The Governor of Puerto Rico (**Governor**) must approve the 2024-QAP after the public has had the opportunity to comment through a public hearing.

The guidelines and requirements set forth in this 2024-QAP will be utilized in the processing of LIHTC.

**2. Internal Revenue Code Requirements**

The housing credit agency for the Government of Puerto Rico is the PRHFA. Section 42(m)(1)(B) of the Internal Revenue Code of 1986, as amended (**IRC** or **Code**; see Annex A), requires the 2024-QAP to:

- Set forth the selection criteria to determine housing priorities appropriate to local conditions.
- Give preference in allocating housing credit dollar amounts among selected projects to those:
  - serving the lowest income tenants; and
  - obligated to serve qualified tenants for the longest periods; and located in qualified census tracts and the development of which contributes to a concerted community revitalization plan.
- Create a procedure that the Authority will follow in monitoring noncompliance, notifying the Internal Revenue Service (**IRS**) of such noncompliance, and monitoring for noncompliance with the provisions of the Tax Credits (See Annex O).

Section 42(m)(1)(C) of the Code requires the 2024-QAP to include certain selection criteria, including:

- 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 housing needs;
- public housing waiting lists;
- tenant populations of individuals with children;
- projects intended for eventual tenant ownership;
- energy efficiency of the project; and
- historic nature of the project.

Every project, including those financed with tax-exempt obligations issued after December 31, 1989, must satisfy the requirements for allocation of Tax Credits. However, projects financed through tax-exempt obligations are not subject to the Tax Credit ceiling described in Code and updated annually in IRS bulletins (**Annual Tax Credit Volume Cap**).

The Authority may use, at its discretion, the priorities and point rankings set forth to allocate certain other funding sources that it is entrusted to administer by state law or Board of Directors Resolutions. Furthermore, the Authority encourages and promotes the leverage of private and public funds to maximize the utilization of Tax Credits and to create a larger affordable housing stock.

### 3. Housing Needs Assessment

#### 3.1. Priorities identified in the Public Policy of Puerto Rico

While Puerto Rico's employment and workforce continue to decrease, difficulty in stabilizing the housing market will arise. Therefore, the Government's new economic system should aspire to be one that is flexible, sustainable, productive, and innovative. Our economy's most neglected sectors (the elderly sector, single-family sector, etc.) are those that are the most vulnerable to the need for housing.

The Authority seeks to promote:

- acquisition of housing for the vulnerable sectors which are in constant growth (elderly, single-family, and young family sectors);
- production and/or rehabilitation of low- and moderate-cost housing;
- more flexible construction for housing;
- more development in rural and urban areas;
- rehabilitation of abandoned construction projects and structures.

#### 3.2. Priorities identified in the Puerto Rico Disaster Recovery Action Plan

In response to Hurricanes Irma and María, Puerto Rico has developed a Disaster Recovery Action Plan (**Action Plan**) to define how the Island will address the urgent humanitarian needs of its residents while also developing and implementing a transformative recovery. This recovery is based on the available funding to recover and rebuild, and just as importantly, to stimulate economic growth in every affected community. As recognized in the Action Plan in compliance with the U.S. Department of Housing and Urban Development (**HUD**) requirements detailed in Federal Registers 83 FR 5844 and 83 FR 40314, Puerto Rico has completed an unmet needs analysis to guide the recovery, based on best available data. For the current CDBG-MIT Action Plan, see <https://recuperacion.pr.gov/en/action-plans/action-plan-cdbg-mit/> for the English version and <https://recuperacion.pr.gov/planes-de-accion/plan-de-accion-cdbg-mit/> for the Spanish version.

The impact and unmet needs analysis outlined in the Action Plan reveals a strong need for housing assistance supported by resilience planning and economic opportunity for households. The impact summary shows that the total housing need surpasses the entire estimated \$19.9 billion CDBG-DR allocation, and that outmigration and economic hardship are severe stressors to maintaining housing viability in a manner that is unique to Puerto Rico.

The Risk Assessment results included in the most recent Action Plan show the top threatening hazards for Puerto Rico at the Island-wide level to be hurricane-force winds, flooding, earthquakes, landslides, and liquefaction. These top threats have most notably been present in Puerto Rico's recent history as the conditions of these weather-related and seismic events have resulted in eight (8) emergency and

major disaster declarations between 2017 and 2020.<sup>1</sup> Each year, as tropical storms and hurricanes bring in bouts of flood-inducing rainfall, thousands of rental units face the risk of flood and flood-induced landslides.

1	Hurricane Force Winds
2	Flood (100-year)
3	Earthquake
4	Landslide
5	Liquefaction
6	Drought
7	Severe Storm
8	Sea Level Rise (10 ft)
9	Wildfire
10	Human Hazard
11	Fog
12	Lightning
13	Category 5 Storm Surge
14	Tornado
15	Tsunami
16	Wind
17	Hail
18	High Temp

Puerto Rico has approximately 390,000 renter-occupied housing units across the Island, making up roughly one-third of all occupied housing units in Puerto Rico.<sup>2</sup> More than seventy-six percent (76%) of the Island's rental stock was constructed before 1990.<sup>3</sup> The risk assessment for rental housing identifies areas where the most renters facing a very high or extreme risk factor for landslides and flooding reside. A similar analysis was performed for renters facing a medium-high or high risk factor for flooding. By providing lower-risk housing options in areas where fewer such housing options exist, risk can be mitigated.

<sup>1</sup> Declarations include: DR-4571-PR declared on November 5, 2020; DR-4560-PR declared on September 9, 2020; EM-3537-PR declared on August 22, 2020; EM-3532-PR declared on July 29, 2020; DR-4473-PR declared on January 16, 2020; EM-3426-PR declared on January 7, 2020; EM-3417-PR declared on August 27, 2019; DR-4339-PR declared on September 20, 2017, among others. Source: [https://www.fema.gov/disasters/disaster-declarations?field\\_dv2\\_state\\_territory\\_tribal\\_value=PR&field\\_year\\_value=All&field\\_dv2\\_declaration\\_type\\_value=All&field\\_dv2\\_incident\\_type\\_target\\_id\\_selective=All](https://www.fema.gov/disasters/disaster-declarations?field_dv2_state_territory_tribal_value=PR&field_year_value=All&field_dv2_declaration_type_value=All&field_dv2_incident_type_target_id_selective=All)

<sup>2</sup> American Community Survey, Census 2022, S2502 at <https://data.census.gov/table?q=S2502&g=040XX00US72>.

<sup>3</sup> Estudios Técnicos, Inc. (Ed.). (2018). Report on the Housing Industry Situation (pp. 5-6). San Juan, PR: Puerto Rico Builder's Association.

The total number of rental housing units in each municipality of Puerto Rico was determined using census data. This data was then analyzed against the hex grid data identifying areas at high risk of flooding and landslide in the Action Plan<sup>4</sup> to estimate the number of rental housing units that are subject to higher levels of risk for flooding and landslides both across Puerto Rico and in each municipality. Following are summaries of these analyses:

Rental Units in Medium to High Flood Risk—Puerto Rico				
Medium	Medium High	High	Total Units in Risk	% Units in Risk
31,049	24,105	55,239	110,393	28.33%

Rental Units in High to Extreme Landslide Risk—Puerto Rico				
High	Very High	Extreme	Total Units in Risk	% Units in Risk
122,960	67,344	14,098	204,402	52.45%

With so many units across the Island in elevated risk areas, the need for a program that focuses on mitigating the risks threatening the rental housing stock is clear. Continuing this analysis, individual municipalities have been identified which have the greatest proportion of their rental housing stock in the highest risk areas for flooding and/or landslides. These municipalities (shown in the tables below) contain the fewest rental housing options available for their citizens, and targeting assistance to them can help to address the risk mitigation needs of renters who are most likely to live in a high-risk area for flooding and/or landslides.

Municipalities with more than 50% of rental units in Medium to High Flood Risk Areas			
Municipio	Rental Units in Risk	Total Rental Units	% in Medium to High Flood Risk
Cataño	3426	3,481	98.42%
Loíza	2488	2,619	95.00%
Salinas	1464	2,290	63.93%
Ponce	9865	15,995	61.68%
Toa Baja	4844	7,866	61.58%
Carolina	11397	19,033	59.88%
Guánica	976	1,652	59.08%
Añasco	1412	2,402	58.78%
Arroyo	836	1,425	58.67%
Luquillo	1098	2,056	53.40%
Humacao	2264	4,473	50.61%
Mayagüez	6909	13,795	50.08%

<sup>4</sup> See Figure 12: 100-Year Flood Zone Hazard Areas on pg. 34 and Figure 17: Rain Induced Landslide Susceptibility Areas on pg. 41.

Municipalities with more than 50% of rental units in Very High to Extreme Landslide Risk Areas			
Municipio	Rental Units in Risk	Total Rental Units	% in Very High to Extreme Risk
Las Marías	706	699	100.00%
Maricao	484	485	99.79%
Comerio	2405	2,411	99.75%
Orocovis	2157	2,167	99.54%
Naranjito	2784	2,799	99.46%
Barranquitas	2921	2,949	99.05%
Aguas Buenas	3058	3,101	98.61%
Ciales	1463	1,534	95.37%
Jayuya	1788	2,011	88.91%
Adjuntas	1422	1,698	83.75%
Corozal	2166	2,608	83.05%
Utua	3355	4,215	79.60%
San Lorenzo	2554	3,831	66.67%
Aibonito	1343	2,026	66.29%
Rincón	1014	1,607	63.10%
Patillas	1221	1,953	62.52%
Lares	2121	3,402	62.35%
Villalba	1091	1,800	60.61%
Cidra	2760	4,677	59.01%
Morovis	1648	2,840	58.03%

The LIHTC-MIT Program will provide funds to qualifying entities that propose projects which incorporate at least one of the mitigation strategies described above and prioritize projects in areas with the lowest proportion of rental housing units outside the highest risk areas.

As a significant portion of the population, renters need housing options that are protected against the risks impacting Puerto Rico to the greatest extent possible. Based upon the risks identified in the Risk Assessment in the Action Plan, specifically for housing structures, PRDOH has determined that the Low-Income Housing Tax Credits – Mitigation (LIHTC-MIT) program will prioritize mitigating risks presented by flooding and landslides. These risks can be mitigated through strategic site selection, as risk severity is based heavily on geographic characteristics, unlike other risks which are either associated with exceptional natural events or are less site-specific across Puerto Rico. Any assisted housing development, however, must still incorporate building standards and methods which mitigate other risks that threaten structures in Puerto Rico as identified in the Action Plan.

Therefore, the LIHTC-MIT program will provide approximately \$100 million to help finance developments that mitigate risks for rental housing through the following:

1. Rehabilitating existing structures to incorporate modern building codes and methods such as elevation that make the residential structure more resilient against the impacts of natural disasters; and
2. Building new resilient rental housing options utilizing strategic site selection outside areas where the geography presents localized risks.

In accordance with the priorities outlined in the Action Plan, the PRHFA seeks to promote:

- Development of affordable residential rental housing that targets the most vulnerable populations;
- Implementation of mixed-finance strategies to generate high-quality, diversified housing options across all incomes; and
- Transform development sites into sustainable and viable communities.

### **3.3. Priorities Identified in PRHFA HOME-ARP Allocation Plan**

Section 3205 of the American Rescue Plan (**ARP**) Act made available \$5 billion to be distributed among eligible jurisdictions to assist homeless individuals or families, those at risk of homelessness, and other vulnerable populations through the provision of housing, rental assistance, supportive services, and non-congregate shelters. This is intended to reduce homelessness and increase housing stability nationwide.

These funds will be administered through the HOME Investment Partnerships (**HOME**) Program of the Department of Housing and Urban Development (**HUD**). In the case of Puerto Rico, PRHFA was designated as a Participating Jurisdiction to administer and implement the program's state allocation.

For the purposes of determining how these funds will be used, the jurisdictions that receive funds (such as PRHFA) must submit an Allocation Plan to HUD that identifies the needs and establishes the types of activities that will be subsidized to meet those needs ([www.homearp.pr.gov](http://www.homearp.pr.gov)).

The HOME-ARP Plan, which is included as Exhibit HH, describes the size and demographic composition of the following populations eligible for assistance within PRHFA's jurisdiction (**Qualifying Populations**):

- Homeless as defined in 24 CFR 91.5
- At Risk of Homelessness as defined in 24 CFR 91.5
- Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD in the program notice
- Other populations requiring services or housing assistance to prevent homelessness and other populations at greatest risk of housing instability, as defined by HUD in the program notice

The HOME-ARP Plan also describes (a) the gaps in housing inventory affecting the Qualifying Populations and (b) priority needs for the Qualifying Populations.

**Existing Gaps in the Current Shelter Inventory.** The Homeless Needs Inventory and Gap Analysis in the HOME-ARP Plan shows a need for 1,800 units and 2,018 beds for homeless adults, and 65 units and 197 beds for homeless families. After considering the number of beds available in the current inventory, that gap narrowed to 1,685 housing units and 1,872 beds for adults, and 51 units and 154 beds for families.

**Existing Gaps in the Current Housing Inventory.** The HOME-ARP Plan also shows that there is currently need for an additional 71,360 rental units to serve people with one or more severe housing problems. Among these units, 47,165 are needed to serve households earning up to 30% of area median income and 24,465 are needed to serve households earning between 30% and 50% of area median income.

**Priority Needs for Qualifying Populations.** Per the HOME-ARP Plan, the needs analysis, and the input received from stakeholders, the primary needs for qualifying populations are related to access to affordable rental housing and permanent housing projects with supportive services. There is also a need for additional resources to help entities that currently provide housing services increase capacity to provide supportive services. At the macro level, taking into consideration the trends in the housing market in Puerto Rico, there is also a need to strengthen the capacities of the organizations that work with housing production on the Island. It is important to note that these needs are reflected differently in geographic terms, with some regions of the Island having a greater need for this type of project.

**Use of HOME-ARP Funding.** In light of the priority needs described above, and as shown in the table below, PRHFA plans to use the vast majority of HOME-ARP funding to help produce and improve affordable rental housing units for Qualified populations, particularly persons experiencing homelessness, households earning less than 30% of AMI, those with a severe cost burden, and those at risk of homelessness. Additional HOME-ARP guidance can be found in the PRHFA HOME-ARP Program Guidelines.

Use of HOME-ARP Funding	Funding Amount
Supportive Services	\$ 4,958,442.30
Acquisition and Development of Non-Congregate Shelters	\$ -
Tenant Based Rental Assistance (TBRA)	\$ 1,000,000
Development of Affordable Rental Housing	\$ 32,229,874.95
Non-Profit Operating	\$ 2,479,221.15
Non-Profit Capacity Building	\$ 1,479,221.15
Administration and Planning	\$ 7,437,663.45
<b>Total HOME ARP Allocation</b>	<b>\$ 49,584,423.00</b>

[For a more detailed information in how these funds will be used by the PRHFA please visit: [www.homearp.pr.gov](http://www.homearp.pr.gov).]

#### 4. Housing Priorities

##### 4.1. Criteria.

Pursuant to Section 42(m)(1)(B)(i) of the Code, Section 5.4 of this 2024-QAP details the selection criteria used to determine housing priorities that are appropriate for local conditions, and to implement the policies of Puerto Rico's government.

##### 4.2. Basis Boost Policy: 30% basis boost.



- 4.2.1.** Pursuant to Section 42(d)(5)(B)(v) of the Code, any project located within an urban area (as defined under the selection criteria), or any portion thereof, that is not contained by or designated as a Qualified Census Tract (**QCT**) shall be treated as located in a Difficult Development Area (**DDA**). This designation seeks to encourage the development of projects in urban centers, including those in municipalities that are underserved by being excluded from a designated DDA or QCT, while targeting the rehabilitation of urban areas consistent with the public policy of Puerto Rico (see Annex D for a list of QCTs and DDAs).
- 4.2.2.** Outside of a QCT, DDA, or the previous designations, any project the Authority determines needs a basis boost to be economically feasible might receive the necessary amount of boost, up to the maximum thirty percent (30%) allowed. A request for a basis boost must detail the reasons for its financial need and conclusively show that the boost is needed. At its sole discretion, the Authority will determine during the underwriting process if a State-designated basis boost is required for financial feasibility. Without limiting the generality of the foregoing, the Authority may boost the eligible basis up to 30% for 9% projects to determine the maximum credit amount if the eligible basis otherwise would be a low percentage of the total development cost due to any of the following: (1) developments in a disaster area, as declared by the President or Commonwealth, that will assist in providing affordable housing to people affected by the disaster; (2) competing under the Nonprofit Set-Aside; and (3) necessity of extensive site preparation and/or off-site costs. All such work must be reasonable under the circumstances. Buildings located in QCTs or DDAs already qualifying for additional credits will not qualify for an additional increase if they have already received the basis boost for which they were eligible.
- 4.2.3.** The following are the exceptions to the 30% basis boost:
- 4.2.3.1. It does **NOT** apply to the acquisition costs of existing buildings or any related acquisition fees.
- 4.2.3.2. The discretion described in this section 4.2 does not apply to projects with tax-exempt financing, under section 42(h)(4) of the Code, not subject to the Annual Tax Credit Volume Cap (i.e., 4% LIHTC projects). Rehabilitation costs of these projects will be eligible for the 30% basis boost **only** if located in a QCT or DDA.

#### **4.3. Set-Asides**

- 4.3.1. Nonprofit Set-Aside.** There will be a set-aside for nonprofit-owned/developed projects equal to ten percent (10%) of PRHFA's Annual Tax Credit Volume Cap. Unallocated Tax Credits under the set-aside following the close of applications for the cycle become unused carryforward in the following year's Tax Credit allocation round. If Tax Credits are exhausted in a designated set-aside pool, all projects submitted for such set-aside pool will compete in the general pool or, if eligible, in another available set-aside pool. The Authority may designate additional Tax Credit set asides.
- 4.3.2.** Tax-exempt bond financed projects are not subject to the above set-aside considerations.

### **5. Tax Credit Allocation Methodology and Criteria**

#### **5.1. Initial Submission: Basic Threshold Qualifications**

To be considered for a reservation of Tax Credits, and have the opportunity to be ranked pursuant to the Point Ranking System in Section 5.4 below, all Applicants must submit an application that will be made available on the Authority's website ([www.afv.pr.gov](http://www.afv.pr.gov)). Interested Applicants must follow the process and submit all required documents, including full payment of fees, and demonstrate that the owner and the project meet the initial basic threshold qualifications by the relevant deadlines. Instructions for completing the Application will be available on PRHFA's website. Questions regarding the application process must be submitted via email to [nofa2024comments@afv.pr.gov](mailto:nofa2024comments@afv.pr.gov).

#### **5.1.1 Application**

The project must demonstrate it is or will be a qualified residential rental project with the basic income and rent restrictions of Section 42 of the Code (See Annex C, Low-Income Housing Tax Credits Program Maximum Rents), as evidenced by the following:

- 5.1.1.1. NOFA Application, duly completed, signed by an authorized officer, sealed, certified and notarized.
- 5.1.1.2. Corporate resolution certifying that the person who signed the application is a duly authorized officer of the applicant, authorized to sign the application.
- 5.1.1.3. Application Checklists: Basic Threshold, Point Ranking, Subsidy Layering Review, and Site Selection Standards, when applicable.
- 5.1.1.4. Applicant's transmittal letter and payment of Application fees described in Section 11.1.
- 5.1.1.5. Owners' Certification (Annex G).
- 5.1.1.6. Accountant's Opinion (Annex H).
- 5.1.1.7. Attorney's Opinion (Annex I).
- 5.1.1.8. Designer's Preliminary Certification (Annex J).
- 5.1.1.9. Owner must demonstrate its commitment to extend the initial 15-year period of compliance with the Tax Credit program's income and rent restriction requirements for a minimum of 15 additional years. (Annex K).
- 5.1.1.10. Written unqualified endorsement from the Mayor or Authorized Representative of the Municipality where the project will be located.
- 5.1.1.11. Sworn statement from Applicant as to federal, state, or local subsidies received or expected to be received for the development and operation of the project.

Copies of the contracts or firm commitment letters of the federal, state, or local subsidies received or expected to be received for the development and

operation of the project, as applicable, must be provided with the Application.

- 5.1.1.12. Acquisition/rehabilitation projects must submit a certification attesting to there being a period of at least 10 years between the date of acquisition by the taxpayer and the date the building was last placed in service, under Section 42, or any applicable exception to this rule.

#### 5.1.2. Applicant

The owner, managing member, sponsors and their members must demonstrate their qualifications by submission of:

- 5.1.2.1. An organizational chart of the ownership structure of the development identifying the Owner, Developer, General Partner/Manager, and/or Sponsor, along with any other related entity. The chart must show the percentage of participation of each entity.
- 5.1.2.2. Names, addresses, telephone numbers, and email address of officers, members, directors, principal stockholders, or managing partner(s) of the following entities: Owner, Developer, General Partner/Manager, and Sponsor (entities identified on page 1 of the Application).
- 5.1.2.3. Organizational documents of the Owner, Developer, General Partner/Manager, and/or Sponsor, along with any other related entity, including:
- Articles of incorporation, by-laws, and internal rules;
  - Partnership/Operating Agreements;
  - Certificates of incorporation (from U.S. states and Puerto Rico, as applicable);
  - Certificates of Authorization to do Business in Puerto Rico for each foreign company;
  - Good Standing Certificates (from U.S. states and Puerto Rico, as applicable);
  - IRS Form SS-4 (application for Employer Identification Number) or other evidence of the taxpayer identification number.
- 5.1.2.4. Audited Financial Statements (updated **within six (6) months** of the application; only applicable to **juridical persons**) of the Developer, General Partners, Managing Members, Owners, and Sponsors of each entity. If created within six (6) months of the application, CPA certification of a new entity and most recent statements.
- 5.1.2.5. Compiled or Revised Financial Statements (updated **within six (6) months** of the application; only applicable to **natural persons**) of the shareholders, directors, principals, officers, members, and partners of the owner, developer, managing member, and general partner. This requirement does not apply to applicants requesting Tax Credits under the nonprofit set-aside.

- 5.1.2.6. As a minimum, the **combined net worth** of all legal entities and natural persons involved in the ownership structure of the project (excluding actual or future limited partners and/or Tax Credit equity providers) must be **equal to or greater than one million dollars (\$1,000,000.00)**.
- 5.1.2.7. **No minimum net worth** amount will be required for **nonprofit owner/developer** proponents if compliance with nonprofit status requirements is met according to this 2024-QAP.
- 5.1.2.8. Sworn statement (affidavit) by owner, developer, and their shareholders, directors, officers, and partners, as applicable, attesting that they are not and have not been involved in any conflict of interest (in fact or appearance) in any way (either personally or in any other juridical capacity) with the Authority or any of its affiliates or their employees, officers, or agents participating in any capacity in the procurement, selection, award, or administration of a contract or agreement supported under the QAP or the NOFA; nor with any contractors that have developed or participated in drafting specifications, requirements, statements of work, and invitations for bids or requests for proposals. If requesting HOME/HTF funds, these entities must also attest to compliance with 24 CFR 92.356(f).
- 5.1.2.9. All previous program participants must also evidence via sworn statement that they are not and have not been involved in any conflict of interest (in fact or appearance) in any way (either personally or in any other juridical capacity) with the Authority, employees, officers, or agents participating in any capacity in the procurement, selection, award, or administration of a contract or agreement supported under the 2024-QAP or the NOFA. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Authority must neither solicit nor accept gratuities, favors, or anything of monetary value from proponents, awardees, contractors, or parties to subcontracts. To ensure objective consultant performance and eliminate unfair competitive advantage, contractors that develop or participate in drafting specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing in any capacity for such procurements. Any conflict of interest will immediately disqualify the applicant from any participation in the Authority programs.

The Applicant will be required to disclose to PRHFA whether an identity-of-interest exists between or among the parties participating in the development and operation of the project. This disclosure shall be made when the Application is filed and at certain other times during the development and operation of the project.

The identity-of-interest definition that PRHFA will follow is the one provided by HUD's Management Agent Handbook 4381.5):

*“An identity-of-interest relationship exists if any officer, director, board member, or authorized agent of any development of any development team member (consultant, general contractor, attorney, management agent, seller of the land, etc.):*

- (a) Is also an officer, director, board member or authorized agent of any other development team member;*
- (b) Has any financial interest in any other development team member’s firm or corporation;*
- (c) Is a business partner<sup>5</sup> of an officer, director, board member or authorized agent of any other development team member;*
- (d) Has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any other development team member; or*
- (e) Advances any funds or items of value to the sponsor/borrower.”*

5.1.2.10. The Applicants (owner, developer and their shareholders, directors, officers, partners, and members, as applicable), must demonstrate via sworn statement (affidavit) that they have not been involved in any way (either personally or as shareholders, directors, officers, members or partners of a corporation, partnership, limited liability company, or other form of business organization or joint venture) in any other project for which the Authority has provided any financing and/or grant (as lender, conduit, custodian of funds, or otherwise) in which a default notice under the terms and conditions of the applicable financing documents has been issued and not cured.

5.1.2.11. The owner, developer, and their shareholders, directors, officers, partners, and members, as applicable, with previous participation in the program, or any other low-income housing program, must demonstrate (through a certification letter from the Director of the Authority’s Federal Funds Compliance Office) that they comply with all applicable compliance requirements and that there is no outstanding finding of noncompliance (including any fees due to the Authority) in another project that received Tax Credits, or any other funds managed by the Authority, and in which they have an interest, participation, ownership, or management. Proponents with projects under a retrofit transition plan with outstanding accessibility findings may meet the basic threshold requirements if the project owner provides evidence that the retrofit is scheduled to be completed within the next eighteen (18) months from the date of the Authority’s certification. Finally, applications submitted for a substantial rehabilitation project whose primary objective is to complete the improvements required in an existing retrofit transition plan will be accepted as meeting this basic threshold requirement.

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<sup>5</sup> In general terms, a business partner is a commercial entity with which another commercial entity has some form of alliance. This relationship may be a contractual, exclusive bond and, alternatively, it may be a very loose arrangement. Contractual relationships include general partnerships, limited partnerships, and limited liability partnerships (LLP), among others. Another type of business partner can be: (1) a supplier; (2) a customer; (3) a channel intermediary (such as an agent or reseller); or (4) a vendor of complementary offerings.

5.1.2.12. Pursuant to Act No. 237-2004, as amended, 3 LPRA § 8611, *et seq.*, known as Establishment of Uniform Parameters in the Process of Contracting Professional and Consulting Services for Puerto Rico Government Agencies and Entities; Act No. 1-2012, as amended, 3 LPRA § 1854, *et seq.*, known as the Puerto Rico Government Ethics Code of 2011; and/or Act No. 2-2018, 3 LPRA § 1881 *et seq.*, known as the Anti-Corruption Code for the New Puerto Rico, Applicants will be required to certify that no officer, agent, or employee of the Government of Puerto Rico, or its Government Entities and Instrumentalities, has a monetary interest in the Application or has participated in contract negotiations on behalf of the Government of Puerto Rico; that the Application is made in good faith without fraud, collusion, or connection of any kind with any other Applicants; that the Applicant is competing solely on its own behalf without connection with, or obligation to, any undisclosed person or firm; and that the Applicant has not been convicted or plead guilty in a state or federal court or any other jurisdiction of the United States of America, of the crimes described in Act 2-2018. For compliance with this mandatory requirement, the Applicant shall submit the following forms with the Application:

- Non-Conflict of Interest Certification (Exhibit X)
- Non-Conflict of Interest on Existing or Pending Contracts Certification (Exhibit Y)
- Limited Denial of Participation Affidavit (Exhibit Z)
- Certification Regarding Debarment Suspension, Ineligibility, and Voluntary Exclusion duly completed and notarized (Exhibit AA)
- Sworn Statement Under Act 2-2018 (Exhibit BB)
- Anti-Lobbying Certification (Exhibit CC)
- Authorization for Background and Financial Information (Exhibit DD)
- Entity Prior Performance Certification (Exhibit EE)
- Certification of No Benefits Received (Exhibit GG)

All documents authorized by a Notary Public outside of Puerto Rico's jurisdiction shall be authenticated and include an official certificate or apostille from the Secretary of State, County Clerk, or corresponding entity of the State government.

5.1.2.13. Projects sponsored or developed by nonprofit organizations and receiving a Tax Credit reservation and allocation from the nonprofit set-aside must document that the organization is a valid qualified nonprofit organization under Section 42(h)(5)(C) of the Code and:

- is exempted from taxation under Section 501(a) of the Code and described in paragraph (3) or (4) of Section 501(c) of the Code;
- materially participates<sup>6</sup> in the acquisition, development, and ongoing operation of the project throughout the entire compliance period;
- agrees to provide the Authority with annual certifications verifying continued involvement;

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<sup>6</sup> **"Material Participation"** is defined in Section 469(h) of the Code and related Treasury Regulations as being involved on a regular continuous and substantial basis in the development and operation of the project throughout the full Tax Credit compliance period. The nonprofit entity must submit a narrative statement, certified by a resolution of its boards of directors describing the nonprofit plan for material participation during the Compliance Period.

- is not affiliated with, controlled by, or party to interlocking directorates with any Related Party of a for-profit organization, and the basis for said determination, as determined by a third-party legal opinion;
- is eligible for the nonprofit set-aside pursuant to IRC Section 42(h)(5) as determined by a third-party legal opinion; and
- fosters low-income housing as one of its exempt purposes.

#### 5.1.3. Development Team

The development team in place (architect/designer, general contractor, construction manager, resident inspector, management agent, accessibility coordinator, consultant's development team (identified on Page 22 of the Application)) should demonstrate their qualifications by submission of:

- 5.1.3.1. Resume of each applicable party indicating qualifications, address, telephone number, and references to specific projects evidencing experience with projects similar to the proposed development.
- 5.1.3.2. Contracts or approved commitment letters of each applicable party.
- 5.1.3.3. Copies of the professional Puerto Rico license of the Registered Architects (**RA**) or Professional Engineers (**PE**), of each applicable party.
- 5.1.3.4. The general contractor shall also provide:
  - Certification of Registry of Building Contractors issued by the Department of Consumer Affairs (**DACO**, by its Spanish acronym).
  - Proof of the bondable capacity from an insurance company and present the fully paid bonds at closing.

*Note: In addition to the application requirements above, in advance of closing, PRHFA will require proof of performance or surety bond for one hundred percent (100%) of the construction contract, or another amount determined by the Authority. Such coverage must include accessibility errors and/or omissions under the Fair Housing Act (**FHAct**) and, wherever applicable, the 2010 Americans with Disabilities Act (**ADA**) standards and Uniform Federal Accessibility Standards (**UFAS**).*

- 5.1.3.5. The project's designer shall also provide proof of professional liability insurance covering the Project's designer/architect for an amount not less than ten percent (10%) of the estimated construction cost, in case of negligence.

*Note: In addition to the application requirements above, in advance of closing, PRHFA will require proof that such insurance coverage includes negligent acts, accessibility errors, and/or omissions under the FHAct and, wherever applicable, ADA standards and UFAS.*

- 5.1.3.6. The proposed management agent with projects in their portfolio participating in the programs under the 2024-QAP (e.g., LIHTC, HOME, HTF

and/or CDBG), must provide a certification from the Authority's Federal Funds Compliance Office and/or PRDOH's Housing Subsidies and Community Development Division, as applicable, stating that such projects are in compliance with all compliance requirements and that there are no outstanding noncompliance findings, including fees due to the Authority. Management agents with projects under a retrofit transition plan with outstanding accessibility findings may meet this basic threshold requirement if they provide evidence that the retrofit is scheduled to be completed within the next six months from the date of the Authority's certification.

#### **5.1.4. Readiness to Proceed**

Applications must evidence of readiness to proceed with the construction of the project as demonstrated by submission of:

- 5.1.4.1. Project timeline for project activities, including specific benchmarks, assembly of the development team, completion of plans and specifications, financial approvals, municipal approvals, construction permits, construction start and completion dates, and estimated placed-in-service and lease-up dates.
- 5.1.4.2. Percentage of construction completion certified by project construction manager and lending institution inspector (both reports required), where a project is already under construction.
- 5.1.4.3. Unexpired evidence of site control. This may be in the form of: (a) a current deed evidencing fee simple ownership; (b) a lease agreement with a term of not less than the period set forth in the extended low-income housing commitment executed by and between the Developer and the Authority, as it appears in the Developer's LIHTC Application; (c) a contract of sale; (d) a lease option with a term of not less than the period set forth in the extended low-income housing commitment executed by and between the Developer and the Authority, as it appears in the Developer's LIHTC Application; and (e) an option to purchase agreement, among others.
- 5.1.4.4. Architectural drawings of the proposed new construction and/or rehabilitation, including, but not limited to, site plan, building elevations, and unit floor plans.

The designated architect/designer, duly licensed in Puerto Rico, and accessibility coordinator shall certify that the development will comply with the *Oversight & Quality Assurance Program-Accessibility Standards Manual* (see Annex F), pursuant to the Conciliation Agreements and Voluntary Compliance Agreements (collectively, **VCA**), dated July 21, 2016 and April 26, 2021<sup>7</sup> respectively, among others that might apply; by the submission of:

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<sup>7</sup> (1) Conciliation Agreement and Voluntary Compliance Agreement between The United States Department of Housing and Urban Development and Alicea Cruz, Wanda L.(Complainant) and Égida Vistas del Río, et. al.(Respondents), Title VII Case number: 02-



The Accessibility Standards checklists provided on the *Oversight & Quality Assurance Program-Accessibility Standards* duly completed, certified, and signed by the project's designer/architect **and** proposed Accessibility Coordinator (as defined and required by the *Oversight & Quality Assurance Program-Accessibility Standards* Manual in Annex F of this QAP):

- Appendix A: ADA Accessibility Verification Checklist (Annex F.1)
- Appendix B: Fair Housing Act Accessibility Checklist (Annex F.2)
- Appendix C: Uniform Federal Accessibility Standards (Annex F.3)

These checklists must be supported with initial evaluation and comments on preliminary drawings/plans indicating which part of the design PRHFA can find in compliance with the applicable requirements.

- 5.1.4.5. Zoning Certification, prepared by project's designer, stating that the proposed/current use of the property is permitted under applicable zoning and land use laws and regulations, and that the applicable zoning authority is not aware of any zoning or land use violations with respect to the property (Annex T).
- 5.1.4.6. Recommendations of infrastructure issued by the Puerto Rico Permits Management Office (**OGPe**, by its Spanish acronym).
- 5.1.4.7. Unexpired construction permit, notification of approval of construction permit, urbanization permit, demolition permit, among others, filed with relevant permits office, if available.
- 5.1.4.8. Pursuant to Section 106-36 CFR Part 800, evidence of State Historic Preservation Office's (**SHPO**) Technical Assistance. The technical assistance letter shall indicate that there are no historic properties or that no adverse effect on historic properties is associated with the undertaking, or the agreed-to measures if such adverse effect is determined.

For all projects without technical assistance letters, the Authority will collect and review the completeness of the documentation required from Applicants, before submitting it to SHPO (pursuant to the existing *Acuerdo Interagencial* between PRHFA and SHPO).

Applicants interested in applying for assistance under the 2024-QAP must submit their request for technical assistance and related documentation through PRDOH or PRHFA. For a detailed list of requirements refer to Exhibit W and the following links:

<https://www.oech.pr.gov/conservacion-historica>

<https://docs.pr.gov/files/OECH/Seccion%20106/Minimum%20documentation%20required%20for%20section%20106%20review.pdf>  
(forms in English)

<https://docs.pr.gov/files/OECH/Seccion%20106/Documentacio%CC%81n%20minima%20requerida%20para%20seccio%CC%81n%20106.pdf>  
(forms in Spanish)

- 5.1.4.9. Wetland Inventory Map from the US Fish and Wildlife Service (**USFWS**) demonstrating project's location outside of any wetland or a Wetland Preliminary Jurisdictional Determination from the Corps of Engineers indicating that the project does not affect a wetland.
- 5.1.4.10. Project location must be identified in the National Flood Insurance Program Map (**FEMA Map**) to demonstrate compliance with the Floodplain Management Act - 24 CFR 55, Executive Order 11988. The project must be located outside the 100-year floodplain, coastal high hazard areas and if the project is located inside the 100-year floodplain, FEMA's approval letter of Map Amendment (**LOMA**) or Letter of Map Revision (**LOMR**) must be submitted.

Projects must comply with the New Final Rule and Governmentwide NEPA Procedures-New Part 55 on Floodplain Management and Protection of Wetlands which implements the Federal Flood Risk Management Standard (**FFRMS**) published on April 23, 2024.

On May 1, 2024, the Council on Environmental Quality (**CEQ**) published its [Bipartisan Permitting Reform Implementation Final Rule](#), updating the governmentwide National Environmental Policy Act (**NEPA**) regulations, to which HUD is subject. This Final Rule went into effect on July 1, 2024 and streamlines floodplain management and wetlands regulations to better address flood risk and adopts a future flood risk management model. Refer to the following link for a detailed list of requirements:

[https://www.hud.gov/program\\_offices/comm\\_planning/environment\\_energ/ffrms](https://www.hud.gov/program_offices/comm_planning/environment_energy/ffrms)

- 5.1.4.11. Project location must be identified in the USFWS map to demonstrate compliance with the Coastal Barrier Resources Act (**CBRA**) - 24 CFR §58.6(b). Federal assistance may not be used in the CBRA system.
- 5.1.4.12. Pursuant to Sections 307(c) and (d) of the Coastal Zone Management Act, Certification of Consistency filed with the State Coastal Management Program, if required.
- 5.1.4.13. Pursuant to the Endangered Species Act - 50 CFR 402, technical assistance or final determination letter issued by the U.S. Fish & Wildlife Service of the Department of the Interior; it must indicate that the project does not affect endangered species.

- 5.1.4.14. Any project located within 1,000 feet of a major noise source, road, or highway, 3,000 feet of a railroad, or 5 miles of a civil airport, must provide a Noise Study pursuant to the requirements set forth in the American National Standard Method for the Physical Measurement for Sound. Resulting noise level must comply with the acceptable level of 65 decibels established in 24 CFR 51.100 - Noise Abatement and Control.
- 5.1.4.15. Field studies, including:
- Soil survey, if project is for new construction or substantial rehabilitation requiring addition or expansion to structures.
  - Archeological, (a) if required by the SHPO pursuant to its review under Section 106 or by the Institute of Puerto Rican Culture (ICP, by its Spanish acronym) or (b) a copy of the recommendation issued by the ICP as part of the construction permit consultancy process evidencing that the study is not required.
  - Hydraulic/Hydrologic, if the project meets the conditions established under the Puerto Rico Department of Natural and Environmental Resources' (DRNA, by its Spanish acronym) Administrative Order No. 2013-12, or a certification issued by a PE attesting that the study is not required.
  - Phase I environmental site assessment report and/or any other applicable environmental report (updated **within six (6) months** of the application). Any other report must comply with ASTM E 1527-21 or any updated version as ASTM promulgates which meets the requirements of EPA's AAI regulations.
- 5.1.4.16. Comprehensive market study report (updated **within six (6) months** of the application) performed by a provider unaffiliated with the developer, of the low-income housing needs in the area to be served. The market study should at least include:
- A statement of the competence of the market study provider, detailing education and experience of primary author and including statement of non-interest.
  - A description of the proposed site and neighborhood, including physical attributes of the site, surrounding land uses, and proximity to community amenities or neighborhood features including shopping, healthcare, schools, and transportation.
  - A map and photos of the subject site and surroundings showing location of community services.
  - An overview of local economic conditions, including employment by sector, list of major employers, and labor force employment and unemployment trends over the past 5-10 years.
  - A description of the proposed development, detailing proposed unit mix (number of bedrooms, bathrooms, square footage, proposed rents, AMI level, utility allowances, and any utilities included in rent), proposed unit features and community amenities, and target population including age restrictions and/or special needs populations.
  - Demographic analysis of the number of households in the market area that are part of the target market (*i.e.*, family, senior, etc.), income-

eligible, and can afford to pay the rent, including a projected household base at placed-in-service date.

- Geographic definition and analysis of the market area, including description of methodology used to define market area and map of market area including proposed site.
- Analysis of household sizes and types in the market area—including households by tenure, income, and persons per household—and quantifying the pool of eligible tenants in terms of household size, age, income, and other relevant factors. This is important as not all residents of the market area are potential or likely tenants or buyers of a given project.
- A description of comparable developments in the market area, including any rental concessions these developments presently offer.
- A description of rent levels and vacancy rates of comparable properties in the market area, segmented by property type (market-rate, Tax Credit, deep subsidy) and with rents adjusted to account for utility differences and concessions or other incentives. **Such description should include all existing Tax Credit developments in the primary market area, any planned additions to rental stock, including recently approved Tax Credit developments, and certify that the proposed Tax Credit units will not have a negative impact on any existing Tax Credit project in the market area.**
- Expected market absorption of the proposed rental housing, including capture/penetration rate analysis of target populations. The study must evaluate the effective demand and the capture rate, usually expressed as a percentage (the project's units divided by the applicant pool). The capture rate is the percentage of likely eligible and interested households living within a reasonable distance from the project site who will probably need to rent units within the area. Also, the study must provide the expected market absorption rate of the proposed rental housing by the target population. The maximum absorption rate should be 10%.
- A description of the effect on the market area, including the impact on Tax Credit and other existing affordable rental housing.
- A statement on how the proposed project would address housing needs experienced as part of the Hurricanes Irma and María, Storm Isaias, Earthquakes of 2019 & 2020, and any other major disaster, as declared by the President of the United States, and how they would benefit the community in the situation of a natural disaster.
- A statement indicating that the development of new housing units will not have a negative impact on the occupancy and operations of existing rental projects (Tax Credit, HOME, HTF, among others) in the proposed project's municipality and market area.
- **THE AUTHORITY WILL CONSIDER THE MARKET STUDY, THE MARKET, MARKETABILITY FACTORS, AND ANY ADDITIONAL INFORMATION AVAILABLE TO DETERMINE IF AN ACCEPTABLE MARKET EXISTS FOR THE PROPOSED DEVELOPMENT. THE AUTHORITY WILL NOT BE BOUND BY THE CONCLUSIONS OR RECOMMENDATIONS OF THE MARKET REPORT AND RESERVES THE RIGHT TO DISQUALIFY ANY**

**APPLICANT IN THE COMPETITION IF IT DETERMINES THAT AN  
ACCEPTABLE MARKET DOES NOT EXIST.**

- 5.1.4.17. For rehabilitation and acquisition/rehabilitation projects, a comprehensive Capital Needs Assessment (**CNA**) report that a competent RA or PE, duly licensed in Puerto Rico, prepares, including an opinion of proposed construction budget. The assessment should examine and analyze, among other things:

- site;
- structural systems (roof, bearing walls and columns, foundations);
- plumbing systems;
- electrical systems;
- fire protection systems;
- building envelope and insulation;
- interiors (including units and common areas); and
- mechanical systems.

The CNA must be accompanied by a certification from a qualified RA or PE, retained for the accessibility inspection and duly licensed in Puerto Rico, to verify the CNA Report, particularly that covered units and project common areas will comply with the structural accessibility mandates of the FHAct and, wherever applicable, the ADA standards and UFAS.

- 5.1.4.18. Affirmative Fair Housing Marketing Plan (Annex S) completed and signed by an authorized representative.

- 5.1.4.19. Written tenant selection procedures.

- 5.1.4.20. Documentation regarding implementation of building standards. As required by Federal Register Vol. 83, No. 28 (February 09, 2018), 83FR5844 and amended by Federal Notice Vol. 84 No. 33 (February 19, 2019), 84FR4836, all new construction of residential buildings and all replacement of substantially damaged residential buildings must comply with a HUD-approved Green Building Standard. PRHFA has extended this requirement to every applicant under this QAP. (see Annex U).

- Therefore, Applicants that meet criteria for new construction or replacement of substantially damaged buildings are required to obtain a minimum of one of the listed certifications:
  - ENERGY STAR® (Certified Homes or Multifamily High-Rise);
  - Enterprise Green Communities;
  - Leadership in Energy and Environmental Design (**LEED**) (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development);
  - ICC–700 National Green Building Standard;
  - Environmental Protection Agency (**EPA**) Indoor Air Plus (ENERGY STAR® a prerequisite); or
  - Any other equivalent comprehensive green building Program acceptable to HUD (such as the *Permiso Verde* issued by the applicable permits office).

- The Applicant shall provide the following documentation to demonstrate compliance:
  - Project narrative, plans, and specifications (updated) with the Green Building Standard requirements. Description of the design parameters, strategies, and the implementation process to ensure compliance with the selected Standard(s), including statement of the project's overall green development goals and expected intended outcomes of addressing those goals.
  - Notification of which Green Building Standard(s) is/are being pursued.
  - Certification of Compliance certifying that the project complies with the selected Standard(s).<sup>8</sup>
  - A checklist, or other suitable documentation, which demonstrates adherence to the selected Standard(s).
  - Notification of the person/team in charge of the implementation of the Green Building Standard(s) at the project.
  - For those cases pursuing the *Permiso Verde*, submit the following:
    - A valid pre-qualification certification from OGPe (*Certificado de Pre-Cualificación de Proyecto Verde-OGPe*).
    - Notification of the Green Design Guides under *Permiso Verde* that will be pursued.
    - After registering the Project with the organization or entity in charge of providing the certification of the project from the selected Green Building Standard, evidence of such application or registration.
    - Supporting documentation as deemed necessary or requested by the Authority during the process of the application evaluation and throughout the duration of the project.
- For rehabilitation of non-substantially damaged structures, Developers shall adhere to the guidelines specified in the HUD Community Planning and Development (CPD) Green Building Retrofit Checklist<sup>9</sup>, to the extent applicable, for the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall (see Annex V). When rehabilitation work includes replacing older or obsolete products, the Developer must use ENERGY STAR®-labeled, Water Sense-labeled, or Federal Energy Management Program (FEMP)-designated products and appliances.

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<sup>8</sup> The Certification of Compliance does not replace the Final Green Building Standard Certification in the case of new construction/replacement of substantially damaged residential buildings.

<sup>9</sup> On February 20, 2020, HUD approved exceptions (waivers) for Puerto Rico to the HUD Community Planning and Development (CPD) Green Building Retrofit Checklist for non-substantially damaged residential buildings funded with CDBG-DR, as requested by PRDOH. The HUD CPD Green Building Retrofit Checklist updated version can be accessed at: <https://www.cdbg-dr.pr.gov/en/lihtc/>.

- The Applicant shall provide the following documentation to demonstrate compliance:
  - Project narrative, plans and specifications updated with the HUD CPD Green Building Retrofit Checklist requirements. Describe the design parameters, strategies, and the implementation process to ensure compliance with such Checklist. Include statement of the projects overall green development goals and expected intended outcomes of addressing does goals.
  - Certification of Compliance certifying that the project complies with the HUD CPD Green Building Retrofit Checklist.<sup>10</sup>
  - Provide the HUD CPD Green Building Retrofit Checklist with the project's implementation measures.
  - Notification of the Person/Team in charge of the implementation of the HUD CPD Checklist requirements at the Project.
  - Supporting documentation as deemed necessary or requested by the Authority during the process of the application evaluation and throughout the duration of the project.

5.1.4.21. Broadband Infrastructure Requirements, under Federal Register Vol. 83, No. 28 (February 09, 2018), 83 FR 5844. Projects are required to include installation of broadband infrastructure in the project plans and specifications, at the time of new construction or substantial rehabilitation, for multifamily rental housing that is funded or supported by HUD and/or CDBG-MIT funds. PRHFA has extended this requirement to every applicant under this QAP. The project's designer/engineer must certify the compliance with this requirement.

- Projects are excluded from this requirement only if one of the below exclusions can be documented by the project's designer:
  - The location of the new construction or substantial rehabilitation makes installation of broadband infeasible;
  - The cost of installing broadband infrastructure would result in a fundamental alteration in nature of its program, or activity, or in an undue financial burden; or
  - The structure of housing, to be substantially rehabilitated, makes installation of broadband infrastructure infeasible.

The Authority will verify the compliance with the broadband requirements and/or exclusions as part of the Technical Review, which is required as a prerequisite to any reservation and/or award.

5.1.4.22. Accessibility Requirements:

- Pursuant the VCAs, all Applicants must comply with the following accessibility requirements:
  - **Twelve percent (12%)** of the total ground floor and/or elevator-serviced units' inventory must be made fully mobility-

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<sup>10</sup> The Certification of compliance does not replace the final certification of compliance for the rehabilitation of non-substantially damaged structures.

- accessible and scattered under the ADA standards and, wherever applicable, the UFAS and
- **Three percent (3%)** of the units' inventory must be made sensory-accessible and scattered under the ADA standards and, wherever applicable, the UFAS.

#### **5.1.5. Financial and Operational Feasibility**

The Applicant must demonstrate the financial and operational feasibility of the proposed project through the submittal of:

- 5.1.5.1. Proposed detail of sources and uses of funds schedule.
- 5.1.5.2. Schedule of monthly cash flow during construction period, including capital contributions.
- 5.1.5.3. Schedule of projected income and expenses during operation certified by the proposed management agent.
- 5.1.5.4. Pro forma with income and expense cash flow, (a) for a 20-year period if only requesting HOME, HTF, or CDBG-MIT for new construction (term for rehabilitations will vary depending on the funding per unit) or (b) a 30-year or any other more restrictive compliance period, showing:
  - a feasible operation;
  - preparation according to the applicable program underwriting standards;
  - all sources and income, including commercial, residential, and ancillary income; vacancy adjustment; Tax Credit equity, CDBG-MIT funds, HOME/HTF Funds, other governmental subsidies or contributions, private equity, and permanent financing that (based on the established parameters) a project would be eligible to receive;
  - all uses and expenses, including partnership distributions, debt service, non-cash expenses such as depreciation and amortization of fees and principal; reserves—all of which must be certified by the proposed management agent.
- 5.1.5.5. Construction costs breakdown, that substantially conforms with form HUD 2328 (form not required), certified by the proposed general contractor or project designer.
- 5.1.5.6. Appraisal report of site(s) and structure(s) prepared by a licensed appraiser unaffiliated with the Developer, the development, or any other entity involved with the Project, and approved by the Authority, within six months of the application.
- 5.1.5.7. Projects with permanent financing other than the Authority's will need a letter of intent from the relevant financial institution. Applicant must submit a firm commitment letter to finalize the reservation of Tax Credits. This letter should detail:
  - amount and term of the loan,



- fixed interest rate,
- non-recourse nature of the loan,
- amortization period,
- pre-payment penalties, and
- collateral requirements.

All projects applying for Tax Credits and debt financing from the Authority must present the loan application to the Authority on or prior to the Tax Credit application's submittal.

- 5.1.5.8. Letter of intent from syndicator or direct investor evidencing available private equity and indicating the credit price.
- 5.1.5.9. A commitment letter indicating available funding issued by the Rural Development Housing Service of the US Department of Agriculture (**RD**) for projects that are financed or sponsored by that entity.
- 5.1.5.10. If applying for 4% Tax Credits and tax-exempt financing:
  - Certification from the financing institution stating the tax-exempt status of the obligations to be issued to finance the project, if requiring tax exempt financing.
  - Opinion from the Owner's Tax Attorney and/or CPA stating the tax-exempt status of the obligations to be issued to finance the project, if requiring tax-exempt financing.
- 5.1.5.11. Written justification for exceeding any of the safe harbor parameters for general contractor fees but in no circumstance, in excess of the maximum allowable aggregate amount.
- 5.1.5.12. Statement with the terms of the deferred developer fee, including whether it will be used to fund the operating reserve and to be repaid from cash flow. Such statement shall confirm compliance with the terms of the "Operating Reserve" subsection of Section 5.2.3.5 hereof.
- 5.1.5.13. Written evidence for projects claiming and/or receiving (or not) tax exemptions (e.g., property tax waivers, rental income exemptions).

## **5.2. Development Budget and Pro Forma Assumptions Review**

### **5.2.1. Description**

The Authority will evaluate the proposed detail of sources and uses of funds schedule and cash flow to ensure that all costs set forth for the project are reasonable and conform to the Authority's underwriting parameters. The Authority will use its parameters and resulting metrics to review project feasibility, determine need, and allocate Tax Credits and gap financing.

Projects applying for CDBG-MIT funds must comply with the CDBG-MIT Program Guidelines (Annex P), all applicable guidelines in the Federal Register (for example, guidelines on Duplication of Benefits (84 FR 28836) and Cost Principles (2 CFR 200 Subpart

(E)), and any other applicable federal and state requirements. The Authority will perform an underwriting analysis and subsidy layering review on all proposal applications that request CDBG-MIT funding under a NOFA (see Annex P).

Applicants for CDBG-MIT funds must disclose all federal funds obtained from any source from the date of a disaster until the date of the application. Each project will undergo a Duplication of Benefits (**DOB**) review prior to issuing an award to ensure that duplicative assistance is not provided. As part of this review, PRHFA will verify that submitted documentation is accurate and current at the time of the award, to the extent possible. Any assistance determined to be duplicative assistance must be deducted from the program's calculation of the Applicant's total need prior to awarding federal assistance.

To address any potential duplication of benefits, the federal funds agreements will include provisions requiring repayment of any assistance later received for the same purpose as the federal funds. If a DOB is identified, PRHFA will recapture funds to the extent by which they are in excess of the need and duplicative of other assistance received by the Project for the same purpose. The recapture method and timeframe will be consistent with 2 CFR Part 200 or other applicable cost principles. Complete recapture provisions will be included in the federal grant agreement.

Projects claiming and/or receiving (or not) tax exemptions (e.g., property tax waivers, rental income exemptions) must present written evidence. Projects requiring funds other than a Tax Credit allocation must conform to the corresponding subsidy layering review to determine the appropriate level of funding under each program.

## **5.2.2. Allowable Costs and Expenses**

### **5.2.2.1. Intermediary Costs**

Intermediary Costs shall not exceed five percent (5%) of Total Development Costs (**TDC**). Intermediary Costs include, but are not limited to:

- organizational costs;
- syndication fees; and
- professional fees (architectural, engineering, accounting, legal, design, environmental consulting, construction management, resident inspector, among others).

### **5.2.2.2. Developer Fee**

The Developer Fee includes the developer's overhead, profit, and consultants other than the types of professional fees discussed above, and all other fees paid in connection with the project for services that would ordinarily be performed by a developer.

The Applicant must submit a copy of each consultant contract that itemizes the services to be performed by such consultant and the fees to be charged for each service or group of services.

- 5.2.2.2.1 For new construction projects the Developer Fee will be limited to a percentage of development costs as follows:

Project Size	Maximum Developer Fee
First 75 Units	15%
Units 76 and over	8%

For purposes of this calculation, “development costs” include all budgeted costs except the land and developer fees and costs (overhead, profit, real estate attorney, consultant, and any other identified party) described in Section 5.2.2.2 above.

- 5.2.2.2.2 For rehabilitation projects, the Developer Fee will be limited as follows:

- The Developer Fee for the **acquisition portion** will be limited to 4% of the acquisition costs or a minimum of \$5,000 (not including land).
- The Developer Fee for the **acquisition portion** for preservation projects involving HUD/RD and PR-Law 173 will be limited to 6% of the acquisition costs or a minimum of \$15,000 (not including land).
- The Developer Fee for the **rehabilitation portion** of a project will be limited to a percentage of development costs as follows:

Project Size	Maximum Developer Fee
First 75 Units	15%
Units 76 and over	8%

For purposes of this calculation, “development costs” include all budgeted costs except costs associated with the acquisition portion, land, and developer fees and costs assigned to the rehabilitation (overhead, profit, real estate attorney, consultant, and any other identified party) described in Section 5.2.2.2 above.

5.2.2.3. General Contractor Maximum Charges

- Builder’s Profit: Six percent (6%) of construction contract amount
- Builder’s Overhead: Two percent (2%) of construction contract amount
- General Conditions: Six percent (6%) of construction contract amount

The total allowed percentages for Overhead, Profit, and General Conditions are based on hard construction costs. The maximum combined costs **shall not exceed fourteen percent (14%)** of the hard construction costs stated on the AIA construction contract.

5.2.2.4. Identity-of-Interest Limitations

PRHFA will impose restrictions on the amount of certain fees in the following identity-of-interest situations:

- An identity-of-interest between the seller and buyer of real estate, on rehabilitation developments, results in a developer fee limitation as follows:
  - The Developer Fee for the **acquisition portion** will be limited to 3% of the acquisition costs or a minimum of \$5,000 (not including land).
  - The Developer Fee for the **acquisition portion** for preservation projects involving HUD/RD and PR-Law 173 will be limited to 5% of the acquisition costs or a minimum of \$15,000 (not including land).
  - The developer fee for the **rehabilitation portion** of a project will be limited to a percentage of development costs as follows:

Project Size	Maximum Developer Fee
First 75 Units	13%
Units 76 and over	6%

For purposes of this calculation, the rehabilitation portion includes all budgeted costs except the acquisition portion, land, and developer fees assigned to the rehabilitation portion (overhead, profit, real estate attorney, consultant, and any other identified party), as defined by HUD's Management Agent Handbook (4381.5) cited above.

- When an identity-of-interest exists between the Developer, Owner, and General Contractor, the following limitations will be applied:
  - For projects with 50 units or less, the combined total of the general requirements, contractor's profit and overhead, consultant's fee, real estate attorney's fee, developer's fee, and developer's overhead will be limited to 25% of TDC.
  - For projects over 51 units, the combined total of the general requirements, contractor's profit and overhead, consultant's fee, real estate attorney's fee, developer's fee, and developer's overhead will be limited to 20% of TDC.
  - Notwithstanding the foregoing, the Authority reserves the right, in its sole discretion, to adjust the timing of payment of the Developer's Fee at any time to achieve or maintain a project's feasibility and long-term viability.

#### 5.2.2.5. Per-Unit Minimums

Rehabilitation expenditures during any twenty-four (24) month period will be the greater of:

- Twenty percent (20%) of the adjusted basis of the building being rehabilitated or
- \$6,000 per low-income unit in the building (qualified basis attributable to such expenditures divided by the number of low-income units), plus the inflation adjustment factor as per applicable laws and regulations.

#### 5.2.2.6. Per-Unit Cost Review

The Authority may appoint an independent consultant to validate the construction or rehabilitation costs in projects that passed the basic threshold requirements. The consultant may evaluate:

- the site, including demolition, earthwork, drainage, pavement, curbs, sidewalks, parking, landscaping, water, sewer, storm drainage, gas and electric utilities and lines;
- structural, plumbing, electrical, fire protection, and vertical transportation systems;
- building envelope, thermal insulation, and air infiltration control systems;
- interiors, including units, common area finishes, and disabled persons accessibility improvements;
- energy efficiency and green technologies;
- construction methods, value engineering assumptions, cost index factors and sources and documentation of itemized costs submitted; and
- construction insurance and general and special conditions.

#### 5.2.2.7. Acquisition Costs

The acquisition price will be limited to the lesser of the sale price or the appraised value of the land and the property, and in the case of a municipal and/or governmental seller, the costs of rehabilitation already incurred on properties not yet placed in service.

#### 5.2.2.8. Operating Expenses

The Authority will consider the reasonableness of the development and operational costs of the project as an additional factor in determining the proper amount of Tax Credits.

### 5.2.3. Underwriting Parameters

#### 5.2.3.1. Vacancy Rate:

- 5% for projects with project-based rental assistance
- 7% in all other projects

#### 5.2.3.2. Income and Reserve for Replacement: 3% annual growth in rents, other income, and reserve for replacement.

#### 5.2.3.3. Operating Expenses: 3.5% annual growth

#### 5.2.3.4. Debt Service Coverage Ratio (DSCR). PRHFA requires a minimum 1.15x DSCR, and a maximum 1.45x DSCR for projects with Section 8 rental assistance, for the term of the permanent debt financing. In this case, DSCR represents the proportion of the development's net operating income (operating income less operating expenses and reserve payments) to foreclosable, currently amortizing debt service obligations.

#### 5.2.3.5. Required Reserves

- Rent-up Reserve. Shall be reasonable based upon projected rent-up time according to market and target population, but in no event less than \$250 per unit.
- Operating Reserve. Shall be four (4) months of: (a) projected operating expenses, (b) debt service, and (c) replacement reserve payment. This reserve must be maintained throughout the term of the Tax Credit extended use period.

Deferring the developer's fees of the project can allow the project owner to fund the operating reserve. In that case, the developer's deferred fee can only be repaid from cash flow and after all required replacement reserve deposits are made. Such fee will be projected to be repaid within 10 years and must meet the IRS standards. A statement with the terms of the deferred fee must be included.

- Replacement Reserve
  - New construction with 100% project-based assistance: \$250 per unit per year
  - New construction, without rental subsidy, and rehabilitation: \$300 per unit per year

**Neither interest income earned on any type of reserve funds nor the release of any type of reserve funds will be considered as a source of revenue for a project.**

#### 5.2.3.6. Project-Based Rental Assistance

The Authority will underwrite the rents according to Tax Credit limits except for projects that intend to use project-based rental assistance (e.g., Section 8, or any other rental assistance), which will be underwritten as per applicable regulations, provided written, valid, and unexpired evidence is submitted (e.g., award letter indicating gross rents approved for the project, notice of anticipated RAD Rent, or executed rental subsidy agreement). In case of Section 8, evidence of completion of the selection review process will have to be provided prior to underwriting.

These limits are based on annual HUD data. If Section 8 HAP contracts, or relevant legislation, allows rents above those limits, a project may be credited for the additional revenue based on such higher rents.

#### 5.2.3.7. Profit and Return on Operations

A project's net cash flow, after the payments of operational expenses, replacement reserve and any permanent loan, cannot exceed 10% of the project's operating expenses, depending on each project's circumstances.

#### 5.2.3.8. Tax Credit Percentage

**[Reserved]**

#### 5.2.3.9. Equity Pricing

The Authority will use the price submitted by owners through a letter of intent/commitment from the investor/syndicator confirming the financial assumptions of the purchase.

#### 5.2.4. Record and Notification

The Authority will record and issue an itemized notice, when it provides notification of a Tax Credit reservation, or lack thereof, of amendments to the pro forma financial statements and changes to development costs, operating expenses, reserves, and underwriting assumptions.

#### 5.2.5. Cure Period

The Authority retains the sole and absolute right to determine that an application is substantially incomplete and ineligible for further review. The Authority may choose to allow for the immediate correction of minor/immaterial defects in an application. Should the Authority choose to allow correction, Applicants will be given a pre-defined 5-working day cure period (which excludes weekends and legal holidays) from the time of the Authority notification to cure defects with their application. If the Authority allows an applicant to cure minor defects, **that does not constitute approval or acceptance of the application and is not an assurance that the application, upon further review, will be deemed acceptable.** Items considered “curable” are as follows:

- The applicant may provide a required signature that has been omitted, unless the application was deemed substantially incomplete by the Authority.
- The applicant may provide missing pages of incomplete documents.

The Authority shall notify the Applicant of any curable defects it discovers by telephone and/or by electronic mail (e-mail). If an Applicant fails to respond to the Authority’s notification of curable defects within the 5-working day cure period, or if an Applicant’s response is non-responsive to the question asked, a negative conclusion shall be drawn. Failure to respond to an item in a cure notification will result in the denial of the points in the category, or the application may be deemed to not meet threshold requirements.

### 5.3. Underwriting and Financial Feasibility Analysis

#### 5.3.1. Description

The Authority shall evaluate the amount of Tax Credits, subject to its placement in the Point Ranking System, after it has determined that a project satisfies all basic qualification requirements, that proposed costs and expenses are reasonable and within the prescribed standards, and that underwriting parameters conform to Authority guidelines.

Section 42 of the Code requires the Authority to allocate the Tax Credits necessary to make a project economically viable. Thus, no project may receive, regardless of its

absolute or relative score in the Point Ranking System, more credits than the Authority's underwriting process identifies as required for financial viability. Specifically, the amount of Tax Credits will be the lesser of the:

- 5.3.1.1. Maximum allowable under the Code according to the project's eligible basis and affordability level (*eligible basis analysis*);
- 5.3.1.2. Project's current necessity as the Authority's underwriting determines (*sources and uses or equity gap analysis*); and
- 5.3.1.3. Amount of tax credits requested.

#### **5.3.2. Pro Forma Statements**

Pro forma statements will be prepared by the Authority based on the analysis described above, which will include recommended sources and uses of funds, as well as projected operating income for the term of affordability. These will include the amount of Tax Credits that a project would be eligible to receive, subject to the Point Ranking System, as well as the amount of permanent financing based on the established parameters, governmental subsidies, capital contributions, and funds from Authority's programs or other programs.

The Authority reserves the right, in its sole discretion, to vary the above-described methodology and all Tax Credit allocation methodology and criteria in order to comply with Section 42 requirements or any state law requirements, or to further the public policy set forth in this 2024-QAP.

#### **5.4. Project Evaluation and Selection (Point Ranking System)**

##### **5.4.1. Description**

The Authority will consider qualified applications for Tax Credits, after a project satisfies all basic factors, using the Point Ranking System established hereinafter.

A project can accumulate a total of **100 points** in the Point Ranking System. All projects seeking an allocation of 4% LIHTC or 9% LIHTC must accumulate a minimum of **30 points** to be entitled to a reservation or an allocation of Tax Credits. The Authority anticipates reserving Tax Credits for projects scoring highest under the project selection criteria, up to the amount permitted by law and the 2024-QAP.

**NOTWITHSTANDING THE PROVISIONS IN SECTION 5.2.5 ABOVE, ONCE SUBMITTED, AN APPLICATION FOR TAX CREDITS UNDER THE 2024-QAP IS FINAL, AND INFORMATION AFFECTING THE APPLICATION'S RANKING CANNOT BE AMENDED.**

Subject to compliance with the minimum 30 points, the Authority may fund a lower scoring project if necessary to meet any Set-Aside category contemplated in this 2024-QAP. Likewise, the Authority reserves the right not to reserve or allocate Tax Credits to any Applicant, regardless of that applicant's point ranking, if the Authority determines, in its sole and absolute discretion, that: a reservation or allocation for such Applicant or project does not further the purpose and goals of the public policy of Puerto Rico, the



Action Plan, or this 2024-QAP; the Applicant's proposed project is not financially viable; or there is not a substantial likelihood that the project will be able to meet the requirements for carryover or final allocation in a timely manner. The information that might be weighed to make such determination includes, but is not limited to, comments of officials of local governmental jurisdictions, the market appropriateness of the project and market information from sources other than the submitted market study, and the prior experience of the Sponsor or its representatives with projects. Pursuant to Section 42(m)(1)(A)(iv) of the Internal Revenue Code, the Authority will make available to the general public a written explanation for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

Every Sponsor, developer, owner, or consultant must attest to the correctness of the information provided as a condition to rank the project's application according to the Point Ranking System. Failure to uphold the information submitted or the representation made to support the application's evaluation and ranking throughout the allocation process will result in a finding of noncompliance and limited participation in further rounds for every person, developer, owner, or consultant that participates in the project's application. The Authority might pursue any other available or enforceable remedies under federal or state laws, regulations, or any applicable professional code of ethics.

#### 5.4.1.1. Section 42 Mandatory Legislative Criteria

Federal legislation requires the Authority to give preference in allocating Tax Credits to those projects serving the lowest income tenants and to those projects committed to serve qualified tenants for the longest period.

#### 5.4.1.2. Other Criteria

Applications will be evaluated according to the following additional criteria:

- Preferred Project Location
  - **Urban area** defined as Central Urban Area by the Planning Board's *Reglamento de la Infraestructura en el Espacio Público* (Annex Q); or Urban Center designated by the Department of Transportation and Public Works or adopted under an Urban Center Area Plan (Annex Q); or a state-designated Historical Zone or federally-designated Historical District
  - The portion of a census tract outside an urban area, as defined above, that has a designated below poverty line rate, as specified in Section 5.4.2
  - The zone of influence around an Urban Train Station, as defined under Section 3(e) of Law 74-1965, as amended
  - Proximity to desirable amenities and avoidance of undesirable amenities
- Preferred Project Characteristics

- Redevelopment of an infill site or and expropriated site pursuant to a nuisance abatement process, or that is incorporated into a scattered-site project
  - Substantial rehabilitation of a state designated historic property, federally designated historic place, or a contributing resource to a federally designated Historic District
  - Adaptive reuse of an existing non-industrial/commercial property.
  - Improvements aimed at facilitating the mobility of its residents and public transportation
  - Development that strengthens and improves the neighborhood's general urban character
  - Unit-mix preferring 2 or more-bedroom units in a project targeted to families
  - Provision of building amenities benefiting all units
  - Capacity to effectively curb costs while complying with applicable standards, threshold requirements, and minimum scoring
  - Construction readiness
- Preferred Housing Needs Characteristics
  - Developments where **at least half** of the units in the project are targeted for very low-income households
  - Developments that set-aside the applicable percentage of units for the special population categories identified in the Puerto Rico State Housing Plan (Exhibit FF)
  - Preservation projects that seek to maintain the stock of affordable rental housing
  - Extended term of affordability beyond the extended use period of thirty (30) years
  - Developments proposed to be converted to tenant homeownership
  - Inclusion in any waiting list of a public housing agency (**PHA**)
- Developer Characteristics
  - Previous successful participation developing and operating Tax Credit projects
  - Adequate financial strength
- Preferred Financing Characteristics
  - Leveraging of capital funding from public sources other than those being managed by the Authority, PRDOH, or Municipalities
  - Leveraging of local government capital funding through cash contributions, land donated or discounted, site or off-site improvements, grants, or municipal construction tax abatement which is granted to the project and is not available under a local or state statute of general application
  - Operational cost efficiency per project size
  - Projects with financing from the Authority
- Supportive Services to Special Tenant Populations as defined in the Puerto Rico Housing State Plan (Exhibit FF)

- Projects that sustain a level of funding for the provision of supportive services
- Other Priorities as Described in the Point Scoring Criteria below

**REGARDLESS OF ANY PROVISION OF THIS 2024-QAP OR ANY DOCUMENT REFERENCED BY OR INCORPORATED IN THIS 2024-QAP, IT IS EACH APPLICANT'S SOLE RESPONSIBILITY TO DEMONSTRATE IN ITS APPLICATION THAT THE PROPOSED PROJECT WILL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS IN ALL RESPECTS. FAILURE BY ANY APPLICANT TO DEMONSTRATE THAT THE PROPOSED PROJECT WILL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS SHALL RESULT IN THE REJECTION OF THE APPLICATION AND THE PROJECT.**

#### 5.4.2. Point Scoring Criteria

Criterion		Score
<b>I.</b>	<b>Project Location</b>	<b>Up to 23 pts</b>
<b>I.1.</b>	<b>Location.</b> A project might be awarded <b>up to 15 points</b> if located within one of the following areas:	Up to 15 pts
I.1.1.	Urban area defined as: Central Urban Area in the Planning Board's <i>Reglamento de la Infraestructura en el Espacio Público</i> ; or Urban Center designated by the Department of Transportation and Public Works or adopted under an Urban Center Area Plan; or a state-designated Historical Zone or federally designated Historical District. See Annex Q for reference maps.	4
	Documentation required: Certification of location by a licensed land surveyor, physical address, and coordinates. Any project property straddling the limit of the designated urban area will be considered as located within.	
I.1.2	The portion of a census tract outside an urban area, that has a rate of:	
	20% or less below poverty line.	4
	more than 20% and less than 30% below poverty line.	3
	more than 30% and less than 40% below poverty line.	1
	Documentation required: Certification of location by a licensed land surveyor. Any project property straddling the limit of the census tract will be considered as located within.	
	Documentation required: Census tract number; census tracts "% Below Poverty Line" as per the Federal Financial Institutions Examination Council's (FFIEC) 2015 Census Report. (Application, page 1).	
I.1.3	The zone of influence around an Urban Train Station, as defined under Section 3(e) of Law 74-1965, as amended.	4
	Documentation required: Certification of location by a licensed land surveyor, physical address, and coordinates. Any project property straddling the limit of the zone of influence will be considered as located within.	
I.1.4	Project either (a) is located outside an area where "the geography presents localized risks" or, (b) if located in such an area, involves rehabilitation of an "existing structure into rental housing to mitigate against the impacts of natural disasters," both as described in the draft CDBG-MIT Program Guidelines (Annex P).	3

Criterion		Score
	Documentation required: Verification of location consistent with (a) using the Puerto Rico Hazard and Risks Dashboard ( <a href="https://pr.gov/CDBGDR">Puerto Rico CDBGDR (pr.gov)</a> ) or verification of rehabilitation consistent with (b) in the form of a signed certification from a qualified licensed registered architect and/or professional engineer. Such certification must identify the specific threats affecting the site and describe in detail the design features intended to mitigate risks associated with those threats (e.g., floodproofing, wind proofing, earthquake retrofit, landslide control).	
I.2.1.	<b>General.</b> Projects located within 1,500 meters of the following amenities will be awarded a point each, <b>up to 6 points</b> :	Up to 6 Pts
	Town square of an urban center.	1
	Public park (must incorporate a passive non-sports area).	1
	Traditional town market ( <i>plaza de mercado</i> ).	1
	Public or licensed elementary, middle, or high school.	1
	Shopping center (100,000 square feet or more of net commercial space; <u>no other listed use is eligible if located within the shopping mall</u> ).	1
	Grocery store or supermarket with meat, produce and dairy.	1
	Hospital, diagnostic and treatment center (CDT) or federally qualified health center (see <a href="https://www.hrsa.gov">www.hrsa.gov</a> ).	1
	Pharmacy.	1
	Federal post office.	1
	Public transit terminal (bus, <i>carros públicos</i> ).	1
	Documentation required: Map certified by a licensed land surveyor attesting to location of the facilities and the distance along a walkable public pathway or roadway between the project's main pedestrian entrance and the closest point of a town square or park facility or a public entrance to any target facility (in case of a shopping mall, to the commercial concourse or a big box-type facility entrance). If close to more than one installation belonging to the same type, only one point will be awarded. In case of a scattered-site project, distance will have to be certified from the nearest point of the closest building in the project.	
	Amenities must also be referenced by the market study.	
I.2.2.	<b>Targeted.</b> Projects targeted to the following special needs populations located within 500 meters of the following amenities will be awarded a point for each one, <b>up to 2 points</b> .	Up to 2 pts
	Single-headed household:	
	Grocery store with WIC contract.	1
	Licensed or chartered childcare facility.	1
	Documentation required: Name and physical address of facilities.	
	Documentation required: Evidence of inclusion in the WIC Vendor Registry published at <a href="https://wicpuertorico.com">wicpuertorico.com</a> .	
	Documentation required: Childcare facility charter issued by ACUDEN.	

Criterion		Score
	Elderly household:	
	Physician or dental office.	1
	Civic center or voluntary work facility.	1
	Documentation required: Name and physical address of facilities.	
	Homeless (as defined under HEARTH Act):	
	WIOA training center.	1
	ASSMCA licensed public or private institution for the ambulatory treatment of mental disabilities, drug addiction or substance dependency.	1
	Documentation required: Name and physical address of facilities.	
	Documentation required: Authorization for WIOA training center issued by Local Workforce Development Area.	
	Documentation required: Copy of license issued by ASSMCA.	
	Documentation required: Map certified by a licensed land surveyor attesting to location of facilities and distance along a walkable public pathway or a roadway between the project's main pedestrian entrance and the public entrance to any target facility. If close to more than one installation belonging to the same type, only one point will be awarded. In case of a scattered-site project, distance will have to be certified from the nearest point of the closest building in the project.	
	Amenities must also be referenced by the market study.	
<b>I.3.</b>	<b>Undesirable Activities.</b> Even if compliant with required environmental review, projects <b>will be discounted</b> one point for each one of the listed undesirable activities, up to a 5 points reduction, if located:	<b>Up to Minus 5</b>
I.3.1.	Within one-eighth mile of a:	
	Junkyard.	-1
	Landfill or dumpsite.	-1
	Industrial site.	-1
	Airport.	-1
	Wastewater treatment plant.	-1
1.3.2.	Adjoining a property which is or contains a:	
	Gas station.	-1
	Auto repair, paint, or tire repair shop.	-1
	Woodworking shop.	-1
	Unabated nuisance, as declared by a Municipality.	-1
	Documentation required: Map prepared by a licensed land surveyor certifying due diligence by identifying any of the listed nuisances within the established distance measured along the shortest straight line between the project lot and the nuisance property. In case of a scattered-site project, the distance will have to be certified from the closest point of the project's lot closest to the identified nuisance.	

Criterion		Score
	<u>Every applicant must file the Map prepared by a licensed land surveyor certifying due diligence and indicating that none of the listed nuisances surround the project.</u>	
II.	<b>Project Characteristics</b>	<b>Up to 41 pts</b>
II.1.	<b>Infill or nuisance.</b> Projects will be awarded one point if proposed to develop an infill site or site expropriated as part of a nuisance abatement process; and one additional point, <b>up to 2 points</b> , for each non-contiguous infill site or site expropriated as part of a nuisance abatement process that is incorporated into a scattered-site project, located within an area with a radius no larger than one-quarter mile. An infill site shall be defined as a site that is bound on all except one of its sides, or two of its sides in case of a corner-type property, by adjoining built-up properties, and that has immediate access to existing public infrastructure of roads, water, sewer, and power.	Up to 2 pts
	Documentation required: Aerial photograph for each infill site showing properties.	
	Documentation required: Cadastral numbers of properties (Application, page 1).	
	Documentation required: Nuisance abatement completed by Municipality supported by property deed and certification provided by Municipality.	
II.2.	<b>Historic property.</b> A substantial rehabilitation project site located in or incorporates a state-designated historic property, federally designated historic place, or a contributing resource to a federally designated Historic District will be awarded <b>3 points</b> .	3
	Documentation required: Act citation or Planning Board's Resolution number and date in case of state-designated properties; listing in the National Register of Historic Places in case of federally designated properties; or State Historic Preservation Office's (SHPO) certification of contributing resource.	
II.3.	<b>Adaptive reuse.</b> Where the residential use is an adaptive reuse of an existing industrial/commercial property (refers to the process of reusing an old site or building for a purpose other than which it was built or designed for; does not apply if the existing structure will be demolished) a project will be awarded <b>5 points</b> .	5
	Documentation required: Appraisal certifying present land use of the property.	
II.4.	<b>Site Characteristics.</b>	Up to 6 Pts
II.4.1.	<b>Mobility.</b> Projects (or the totality of the building sites, in the case of a scattered-site project), that incorporate improvements aimed at facilitating the mobility of residents and promoting public transportation will be awarded <b>up to 3 points</b> , as follows:	Up to 3 pts
	The project provides an accessible and dedicated pedestrian network within the project site to connect the main pedestrian entrance(s) of the building(s) with egress points on all property sides adjoining a public street.	1
	Documentation required: Site plan certified by the project's designer identifying the proposed improvements.	
	Provided it is not required by a competent authority as an off-site improvement, the project includes the construction or rehabilitation of all non-	1

Criterion		Score
	conforming sidewalks in the perimeter of the project site adjoining a public roadway, in compliance with applicable accessibility standards and local codes.	
	Documentation required: A separate plan drawing certified by the project's designer identifying any segments of the existing pedestrian pathways requiring accessibility improvements or in need of repair, and proposed improvements or new construction required to comply with applicable accessibility standards and local codes.	
	Documentation required: Approval from Municipality and competent transit authority, if applicable.	
	Documentation required: Letter from competent authority attesting the improvement is not a required off-site.	
	Provided it is not required by a competent authority as an off-site improvement, the project includes the construction or rehabilitation of transit pull-offs or public transit stops and required signage in any point of the roadway perimeter of the project site; or the provision or improvement of the sidewalks, crosswalks, refuge islands, and required signage to connect an off-site existing public transit stop with the project site, in compliance with applicable accessibility standards and local codes.	1
	Documentation required: A separate plan drawing certified by the project's designer identifying any segments of the existing pedestrian pathways requiring accessibility improvements or in need of repair, and proposed improvements or new construction required to comply with applicable accessibility standards and local codes.	
	Documentation required: Approval from Municipality and competent transit authority, if applicable.	
	Documentation required: Letter from competent authority attesting the improvement is not a required off-site.	
II.4.2.	<b>Urban Considerations.</b> A proposed development that strengthens and improves the neighborhood's general urban character may be awarded one point for each one of the following criteria, <b>up to 3 points</b> , as follows:	Up to 3 pts
	The project achieves the maximum allowable gross floor area, housing density, and/or height under applicable code provisions.	1
	Documentation required: Table with applicable code provisions, maximum parameters, and project parameters certified by the project's designer.	
	The parking spaces and service areas are screened from any public sidewalk or roadway by green hedges, fences, or walls with a void-to-solid area ratio of 1 or less.	1
	Documentation required: Site plan and elevation details certified by the project's designer identifying visual barriers and certifying compliance.	
	The main entrance(s) of building(s) open(s) to the sidewalk of an adjoining public roadway.	1
	Documentation required: Site plan certified by the project's designer showing the location of the building's main entrance(s).	
II.5.	<b>Building Characteristics.</b>	Up to 10 Pts

Criterion		Score
II.5.1.	<b>Unit Mix.</b> Projects might earn <b>up to 2 points</b> for a unit mix preferring 2 or more bedrooms per unit as follows:	Up to 2 pts
	75% or more with 2 or more bedrooms per unit	2
	50% or more with 2 or more bedrooms per unit	1
	Documentation required: Floor plans certified by the project's designer.	
	Documentation required: Project pro forma.	
II.5.3.	<b>Building Amenities.</b> Projects will be awarded one point, <b>up to 8 points</b> , for each one of the following building or unit features benefiting all units and, if applicable, not required by code or a permit authority:	Up to 8 pts
	Centrally located courtyard or patio with an area of no less than 30 sq. ft. per unit directly accessible from the main entrance(s) of the building(s).	1
	Community or meeting center with and area of no less than 15 sq. ft. per unit, with kitchen and public bathrooms.	1
	Open balcony in each unit with an area of no less than 24 sq. ft. (this area is part of the unit's Gross Living Area).	1
	Equipped exercise room(s) with an area or aggregate area of no less than 300 sq. ft.	1
	Common laundry(ies) equipped with at least a washer-dryer pair per 15 units.	1
	Equipped playground outdoor area with visual control from the main entrance.	1
	Night shift security guard.	1
	Trash chutes (for mid- or high-rise facilities).	1
	Storm windows or shutters in all units.	1
	Units with 3 or more bedrooms have 2 bathrooms.	1
	Single-family units provide Washer/Dryer hookups.	1
	Single-family units provide Carport ( <i>marquesina</i> ).	1
	Ceiling fans for all bedrooms and living room areas.	1
	Documentation required: Floor plans and elevations certified by the project's designer showing designated spaces, equipment, and/or floor area.	
	Documentation required: Designer's Preliminary Opinion Letter (Annex J, model of certification), specifying compliance with applicable design criteria.	
II.6.	<b>Gap Financing Efficiency.</b> Projects that demonstrate the capacity to efficiently curb gap financing sources (LIHTC-MIT, HOME-ARP, HOME, HTF, FHLBNY, among others) relative to total development costs—while complying with applicable standards, threshold requirements, and minimum scoring—may earn <b>up to 10 points</b> . This efficiency will be measured by the following ratio: <ul style="list-style-type: none"> <li>• Total Development Cost (<b>TDC</b>),</li> <li>• Minus Gap Financing requested (<b>GFR</b>),</li> <li>• Divided by the TDC,</li> </ul>	Up to 10 pts



Criterion		Score
	<ul style="list-style-type: none"> <li>Times 10 [number of max points that a project can receive for this criterion], rounded to four (4) decimal points.</li> </ul>	
	<p>The result of the above computation equals the points earned by the project as follows:</p> <p style="text-align: center;"><b><math>((TDC-GFR)/TDC)*10=Points\ Earned</math></b></p>	
	Documentation required: Project Development Costs (Application, Pages 11 and 12).	
	If the Gap Financing is provided by an entity, other than PRHFA, copies of the commitment letter/agreement for such financing.	
	Documentation required: Sources and Uses. (Application, Page 15).	
II.7.	<b>Construction Readiness. Up to 5 points</b> , if requesting only Tax Credits, will be awarded if the project has one of the following:	Up to 5 Pts
	Unexpired Notification of Approval of the Construction Permit.	5
	Documentation required: Document issued by OGPe or Autonomous Municipality.	
	Urbanization permit or notification of approval of the urbanization permit, recommendations from infrastructure agencies, along with threshold environmental applicable review format and Section 106 compliance.	3
	Documentation required: Urbanization permit and infrastructure recommendations issued by OGPe, Autonomous Municipality or a <i>Profesional Autorizado</i> , as might apply.	
	Documentation required: Applicable environmental review format (Phase I ESA, Compliance Determination with a Statutory Checklist format (for projects requiring funds or rental assistance, among other programs, Environmental Assessment)); filing completed with OGP; and copy of any required notice related to the specific Federal law and authority review triggered under the Compliance Determination; or the Notice of Finding of No Significant Impact under the Environmental Assessment.	
	Documentation required: Compliance document issued by SHPO (e.g., Technical Assistance letter issued by SHPO regarding potential effects upon historic properties).	
	Unexpired Recommendations from infrastructure agencies, along with threshold environmental applicable review format and Section 106 compliance.	2
	Documentation required: Same as under previous criterion (except for copy of Urbanization Permit).	
III.	<b>Housing Needs Characteristics</b>	<b>Up to 12 Pts</b>
III.1.	<b>Income Targeting.</b> A project might earn <b>2 points</b> if at least 50% of the units in the project are targeted for households with incomes at 50% of AMI.	2
	Documentation required: Proposed covenant provision for income targeting included in letter of intent to sign Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K).	

	Criterion	Score
	Documentation required: Tenant selection procedures.	
III.2.	<p><b>Targeted Units.</b> A project will be awarded <b>up to 3 points</b> if it sets aside the applicable percentage of units for any of the following special population categories identified in the Puerto Rico State Housing Plan (Exhibit FF): elderly, single-family, and young family sectors. Other special population set asides that will be awarded these points include those for: persons with HIV/AIDS, veterans, assisted living, and “Qualifying Populations” as defined in the HOME-ARP Plan (Annex HH).</p> <p>As follows:</p>	Up to 3 pts
	If requesting Tax Credits, at least 75% of total project units set aside for the targeted group during the length of the extended use period.	3
	If requesting Tax Credits, at least 50% of total project units set aside for the targeted group during the length of the extended use period.	2
	If requesting Tax Credits, at least 25% of total project units set aside for the targeted group during the length of the extended use period.	1
	Documentation required: Proposed covenant provision for income targeting included in letter of intent to sign Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K) and recording the targeted set-aside for the length of the affordability period.	
	Documentation required: If requesting CDGB-DR, Affirmative Fair Housing Marketing Plan (similar to Annex S).	
	Documentation required: If requesting only Tax Credits, tenant selection procedures.	
III.3.	<p><b>Preservation.</b> To strengthen the Public Policy of Puerto Rico that seeks to maintain the stock of affordable rental housing, a substantial rehabilitation project that meets the threshold expenditure level established under IRC 42(c)(3)(A)(ii) might earn <b>up to 3 points</b> if:</p>	Up to 3 Pts
	The project curbs the risk of loss due to physical condition by replacing more than one major building component, which includes roof, bearing wall, floor, or foundation structures; plumbing system; electrical system; fire prevention and safety system; vertical transportation; or building envelope.	2
	Documentation required: Comprehensive capital needs assessment certified by an architect or civil engineer, duly licensed in Puerto Rico, including the identification of the condition of major building systems and the extent of required code compliance retrofitting.	
	The project curbs a significant risk for market conversion of the Tax Credit or otherwise rent-assisted property; or preserves a comparable level of existing project-based rental subsidies that will expire within two years of the application date.	1
	Documentation required: Housing market study must demonstrate the capacity of the project to compete for market rate tenants; copy of existing HAP, if applicable.	
III.4.	<p><b>Term.</b> If requesting Tax Credits, a project might earn <b>up to 2 points</b> for extending the term of affordability beyond the extended use period of thirty years for:</p>	Up to 2 Pts
	At least 10 more years.	2

Criterion		Score
	At least 5 more years.	1
	Documentation required: Letter of intent to extend the initial 15-year period of compliance with the Tax Credits program's income and rent restriction requirements for a minimum of 15 additional years and sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K).	
	Documentation required: Project pro-forma.	
III.5.	<b>Homeownership Conversion.</b> If requesting Tax Credits, a project will be awarded <b>1 point</b> if proposed to be converted to tenant homeownership ( <i>right of first refusal</i> ) for the residents after the compliance period expires.	1
	Documentation required: Letter of intent to sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K and reflecting a right of first refusal granted to the residents).	
	Documentation required: Syndication documents with conversion provisions.	
	Documentation required: Detailed plan with projections on maintenance, reserves, homeownership training, continued affordability, sales price calculation, lease and purchase agreements, and any other relevant information to demonstrate compliance with applicable regulations.	
III.6.	<b>Public Housing Agency (PHA) Waiting Lists.</b> If requesting Tax Credits, any project included in any waiting list of a PHA might earn <b>1 point</b> .	1
	Documentation required: Referral agreement with the correspondent PHA to include the project in any listing of public housing opportunities where households with tenant-based subsidies are welcomed and where the project's owner or management agent agrees to actively seek referrals from the public housing authority to apply for units at the project. Also, Annex S, specifying in item 8 that "the owners will rent the units of the project to eligible families referred by the PHA from its waiting list or from their own waiting list if the PHA cannot provide adequate candidates, as determined and requested on the PHA's Administrative Plan."	
IV.	<b>Project Developer Characteristics</b>	<b>Up to 9 Pts</b>
IV.1.	<b>Experience.</b> Developer, General Partner, or Managing Partner can demonstrate a successful record and full compliance participating in the same capacity in the development of Tax Credit projects, or other low-income housing programs, in Puerto Rico. <b>Up to 6 points</b> might be awarded, a point being awarded for each documented project, <b>up to a maximum of 3 projects</b> , for projects with each one of the following comparable characteristics:	Up to 6 Pts
	If proposing to use only LIHTC, project demonstrating utilization of program, or in combination with other programs; if proposing to use LIHTC in combination with any other federal or state program, project utilization of similar program mix subsidizing development costs, long-term operations, or providing long-term rental assistance.	1-3
	Similar or deeper share of income targeted populations.	1-3
	Documentation required: Copy of HAP, IRS form 8609 for each project, as applicable.	
	Documentation required: Relevant project documentation to support experience in a particular project.	

Criterion		Score
	Documentation required: Certification issued by the Authority's Federal Funds Compliance Office, or the PRDOH's Housing Subsidies and Community Development Division, as applicable, showing no outstanding findings of noncompliance.	
IV.2.	<b>Financial Strength. Up to 3 points</b> might be awarded if developer, general partner, and manager partner have:	Up to 3 Pts
	Combined current liquid assets equivalent to the greater of one million dollars (\$1,000,000) or 5% of the total development costs.	2
	Combined net worth equivalent to the greater of three million dollars (\$3,000,000) or 15% of total development costs.	1
	Documentation required: Compiled or revised financial statements certified by a licensed accountant.	
	Documentation required: Sources and Uses (Application, Page 15).	
V.	<b>Financing Characteristics</b>	<b>Up to 12 Pts</b>
V.1.	<b>Funds Leveraging.</b> The leveraging of capital funding from public grants or non-financing sources, other than those being managed by the Authority, PRDOH, or the Municipalities, is encouraged by awarding a project <b>up to 2 points</b> as follows:	Up to 2 Pts
	At least 15% of the total development cost covered by other sources of public funding.	2
	At least 10% of the total development cost covered by other sources of public funding.	1
	Documentation required: Sources and Uses (Application, page 15).	
	Documentation required: Binding commitment, agreement, or award documentation.	
V.2.	<b>Local Government Funding. Up to 3 points</b> are awarded to projects that leverage local government capital funding through cash contributions, land donated or discounted, site or off-site improvements, grants, or a municipal construction tax abatement which is granted to the project and is not available under a local or state statute of general application, with a total value of:	Up to 3 Pts
	At least 5% of the total development cost.	3
	At least 3% of the total development cost.	2
	At least 1% of the total development cost.	1
	Documentation required: Sources and Uses (Application, Page 15).	
	Documentation required: Binding commitment, agreement, or award documentation.	
	Document required: If applicable, Ordinance, Resolution, or Bid supporting property transaction.	

Criterion		Score
	Document required: Evidence of site control by Owner, including earnest money agreement, option or closing statement for land and/or buildings, title, deed, or leasehold agreement, or equivalent for Municipal land transaction.	
	Document required: If applicable, documentation supporting construction tax abatement (Ordinance and/or Resolution).	
V.3.	<b>Local Government Land/Building.</b> Projects which have bought, or optioned to buy, land for redevelopment owned by PRHFA, PRDOH, PRPHA, a Municipality or other instrumentality of the Government of Puerto Rico, will be awarded <b>3 points</b> .	Up to 3 Pts
	Documentation required: Copy of long-term lease agreement, deed, or letter of commitment.	
	Document required: If applicable, Ordinance, Resolution, or Bid supporting property transaction.	
	Document required: Evidence of site control by Owner, including earnest money agreement, option or closing statement for land and/or buildings, title, deed, or leasehold agreement, or equivalent for Municipal land transaction.	
V.4.	Projects applying for financing with the Authority will be awarded <b>up to 3 points</b> .	Up to 3 pts
	Interim and Permanent Financing.	3
	Interim or Permanent Financing.	2
	Documentation required: PRHFA loan application	
V.5.	<b>Operating Expenses.</b> A project might be awarded 1 point if it meets the corresponding operating expense requirement on a per-unit per-annum ( <b>PUPA</b> ) basis in the first year:	1 Pt
	For developments with 85 units or less, a PUPA between \$3,400 and \$4,000.	1
	For developments with 86 to 150 units, a PUPA between \$3,300 and \$3,900.	1
	For developments with more than 151 units, a PUPA between \$3,200 and \$3,800.	1
	Documentation required: Certification provided by the management agent.	
VI.	<b>Supportive Services</b>	<b>Up to 3 Pts</b>
VI.1.	<p><b>Supportive Services.</b> To advance the public policy of Puerto Rico to increase the provision of supportive services by integrating agencies that provide these services and coordinate their actions to support permanent housing for populations with special needs, any project might earn <b>up to 3 points</b> for sustaining a funding allocation for the provision of supportive services of the type:</p> <p>(1) authorized under a federally subsidized program and that could be funded with resources obtained directly as a grantee in competitive or demonstrative grants, or as a recipient of rental or operational assistance (i.e. CoC, VASH, GPD, SSVF, Veteran Per-Diem, CDBG, 811, 202, HOPWA, FSS Program, etc.), or indirectly as sub-grantee or provider, or by contracting the services of a sub-grantee or provider, of any state or municipally managed program (i.e., ADFAN's CSG, VRA's Independent Living, ASSMCA's Homeless and Chronic Mental Health, ADFAN's Adult and Person with Disabilities Services, Medicaid's Home and Community-Based Service Waivers, among others); or (2)</p>	

Criterion		Score
	contracted for a certified Assisted Living facility authorized under Act 244-2003, as follows:	
	Up to 5% of the project's annual operational cost for the length of the compliance period of affordability.	3
	Up to 3% of the project's annual operational cost for the length of the compliance period of affordability.	2
	Up to 1% of the project's annual operational cost for the length of the compliance period of affordability.	1
	Documentation required: Copy of supportive services commitment letter, binding commitment, award letter, contract, or agreement.	
	Documentation required: Project pro forma.	
	Documentation required: Letter of intent to sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K) and specifying operational budget commitment for supportive services.	
<b>Total Score</b>		<b>100</b>
<b>Minimum Score</b>		<b>30</b>
<b>VII.</b>	<b>Tie-Breaking Criteria, listed in order of importance</b>	
VII.1.	Will favor the project that is the readiest to proceed.	
VII.2.	Will favor the project with the highest gap financing efficiency score as determined in Section II.6. of these criteria.	
VII.3.	Will favor the project with lowest total development costs per unit.	
VII.4.	Will favor the project that is located in a Municipality with the longer elapsed period without Tax Credit allocation.	

## 5.5. Tax Credit Allocation

### 5.5.1. Description

Following the Point Ranking System calculation, projects will be ranked in descending order, most points to least points. The Authority anticipates reserving Tax Credits for those projects scoring highest under the Point Scoring Criteria up to the amount permitted by law and this 2024-QAP. The Authority anticipates reserving Tax Credits for projects in the list, starting with the highest scoring project, and continuing down the rankings, reserving Tax Credits, and subtracting them from the cumulative balance of available Tax Credits for that year, until that balance reaches zero.

Tax Credit allocations for projects that received binding commitments in prior years will be honored per the terms of such commitments, and projects competing under set asides will initially be ranked and compete only against other projects competing under such set asides, until the Tax Credit balance of such set asides reaches zero, whereupon such projects will be ranked and compete against all projects outside such set asides.

If there are insufficient Nonprofit eligible projects to meet the Nonprofit Set-Aside, the unallocated Nonprofit Set-Aside credits cannot be allocated to other eligible projects and will become unused carryforward in next years' Authority Tax Credits ceiling, as provided in Section 4.3.1.

However, the credit allocation process may vary in order to further the public policy set forth in this 2024-QAP, and/or the Action Plan. Specifically, notwithstanding the Point Ranking System, nor other provisions set forth in this 2024-QAP, the Authority reserves the right and shall have the power to allocate credits and other administered funds to a project, or waive provisions, irrespective of its point ranking, if such intended action is: (1) in compliance with Section 42 of the Code; (2) in furtherance of the allocation priorities, Set-Asides, and preferences stated herein; and (3) determined to be in the interest of citizens of Puerto Rico.

**THE RANKING UNDER THE PROJECT SELECTION CRITERIA DOES NOT VEST AN APPLICANT OR PROJECT WITH ANY RIGHT TO RESERVATION OR ALLOCATION OF TAX CREDITS.**

Applications for new construction projects that will be placed in service within the next calendar year in which the application is submitted will receive the highest priority. Projects returning Tax Credits from a previous year allocation and not placed in service within the established two-year period will receive the lowest priority.

**5.5.2. Allocation of Other Authority Administered Funds**

It is possible that other programs and sources of funds managed by the Authority may choose to rely on the Point Ranking System set forth in this 2024-QAP, as amended from time to time, to select projects to receive fund allocations.

It is also possible that such other sources of funds may be included as part of a particular project's pro forma statements calculated as described in Section 5.3.2; that the Point Ranking of such project is sufficient to receive Tax Credits; yet that there are not sufficient funds in one or more of such other programs to meet the recommended amounts for such other program. In such situation, the Authority may, in its sole discretion and based on the criterion of necessity, adjust upwards the recommended Tax Credits up to the maximum limits prescribed in Section 42 of the Code.

**5.5.3. Notification of Tax Credit**

The Authority will notify each applicant of an initial reservation of Tax Credits, or lack thereof. The Executive Director of the Authority will sign the letter awarding, or denying, reservation of Tax Credits. For successful applicants, the initial reservation letter will specify the preliminary amount of annual Tax Credits, any additional information and documentation required to adjust said amount to established parameters, and the date by which to submit to the Authority such information and documentation necessary to receive the final allocation. The Initial Reservation Letter will also include:

5.5.3.1. Itemization of adjustments to costs, income, expenses, and underwriting assumptions made to the application.

- 5.5.3.2. Any deficiency in sources of funds for the project based on the information submitted with the application, and a reasonable time to present additional sources of funds already committed to cover such deficiency, subject to cancellation of the Initial Reservation Letter.

#### **5.5.4. Review**

- 5.5.4.1. An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may submit a written petition for reconsideration to the Executive Director of the Authority within ten (10) calendar days after the notification by mail of the letter denying the application. A copy of the petition for reconsideration must be filed with the Financing and Tax Credit Department.
- 5.5.4.2. The Authority shall consider the petition for reconsideration within ten (10) calendar days of filing. If the Authority decides upon the merits of the petition for reconsideration, the term to petition for judicial review shall commence as of the date of the notification by mail of the final determination. If the Authority takes no action with respect to the petition for reconsideration within ten (10) calendar days of filing, the petition for reconsideration shall be deemed to have been denied outright and the term for judicial review shall commence to run as of that date.
- 5.5.4.3. An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may present a petition for review before the Court of Appeals within ten (10) calendar days after the notification by mail of the letter denying the application, or within ten (10) calendar days after the expiration of the term provided to the Authority to consider the petition for reconsideration.
- 5.5.4.4. The filing of a petition for reconsideration or a petition for judicial review shall not stay the Authority's allocation of Tax Credits to successful applicants. If an applicant who petitions for review obtains a final order or judicial decree that modifies the decision of the Authority, so that the application is worthy of a reservation of Tax Credits, the Authority shall provide the applicant with a reservation of Tax Credits from the next available allocation round, whether in the current year or a subsequent year.
- 5.5.4.5. The reconsideration and judicial review procedure provided herein shall be the exclusive proceeding to review the merits of a decision of the Authority regarding the reservation or allocation of Tax Credits pursuant to this 2024-QAP.
- 5.5.4.6. Other regulations regarding formal or informal adjudicatory proceedings before the Authority are not applicable to Tax Credit reservation and allocation decisions.

#### **5.5.5. Environmental Review Requirements**

Environmental Review (**ER**) is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. Every project undertaken with federal funds, and all activities associated with such projects, are subject to the provisions of the National Environmental



Policy Act of 1969 (**NEPA**), as well as the HUD environmental review regulations in 24 CFR Part 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.

Applications under other federal programs (e.g., CDBG-MIT, Section 8, HOME, and HTF) will be subject to a level of environmental determination for project activity. This review and determination (based on project Application) will be required prior to the development of any program Agreement (e.g., CDBG-MIT, Section 8, HOME, HTF). The ER (based upon that level of environmental determination) will then be required prior to receiving funding.

Unlike some other HUD statutes, the HTF statute does not include a provision for ER. HUD is committed to the principles of NEPA and ensuring decent, safe, sanitary, and affordable housing for extremely low and very low-income families. Consequently, HUD has developed HTF Environmental Provisions under the HTF Property Standards at 24CFR § 93.301(f) for new construction and rehabilitation. The state, state-designated entity, or sub grantee administering HTF is responsible for ensuring that projects funded by HTF meet the property standards at the time of project completion.

The CDBG funds agreement will contain a provision prohibiting the State recipient, Subrecipient, or project owner from undertaking or committing any funds (not limited to HOME funds) to physical or choice-limiting actions. Physical or choice-limiting actions include entering into contracts (including conditional contracts) for property acquisition, demolition, movement, rehabilitation, conversion, repair, or construction prior to the environmental clearance. The violation of this provision may result in the denial of any funds under the agreement. Finally, the agreement to provide funds to the project will be conditioned to proceed with, modify, or cancel the project based on the results of the environmental review.

No work may start on a proposed project before the ER process is completed, even if that work is being done using non-HUD funds. **All program recipients must comply with all applicable Federal, State, and local environmental laws and regulations. A violation of this requirement may jeopardize federal funding to a project and disallow all costs that were incurred before the completion of the Environmental Review.**

PRDOH is the Responsible Entity (**RE**) for ER and compliance for all projects that receive CDBG-MIT funds; whereas the Authority is the RE for all other federal funds, such as HOME and HTF. Both agencies will maintain a written Environmental Review Record (**ERR**) of the ER process meeting the legal requirements and documenting their review and compliance with the related federal authorities listed in 24 CFR Part 58. The 24 CFR Part 93.301(f) also applies to HTF grants. For additional details, regarding the ER please refer to Annex P.

Be advised that if the project only applies for Tax Credits, the ER explained in this section is not required. Nevertheless, after construction begins, the project will not be eligible for any federal funding (e.g., CDBG-MIT, Section 8, HOME, and HTF) without an ERR. .

### 5.5.6. Accessibility Requirements

The Authority will verify the project applications for compliance with accessibility requirements as part of the Technical Review, which is required as a prerequisite to any reservation and/or award. The Authority will also cause the Applicant to comply with:

- Davis-Bacon and related acts (40 USC. §§ 276a-276a-7)
- Contract Work Hours and Safety Standards Act (40 USC §§ 327-333)
- Copeland (Anti-Kickback) Act (18 USC § 874/40 USC § 276c)
- Fair Labor Standards Act of 1938, as amended (29 USC § 201, *et seq.*)
- Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC §1701u)

Every project that receives a LIHTC reservation will have the drawings and Accessibility Standards checklists reviewed and validated by PRHFA's NAC. The NAC's findings and recommendations must be addressed and incorporated in the project's drawings prior to construction.

During construction, the developer/owner must certify compliance with the Accessibility Standards on a monthly basis. A final certification of compliance regarding Accessibility Standards must be completed prior to project delivery.

After construction/rehabilitation is completed, the developer/owner must provide:

- Proof of training certifications. The Project's Team staff shall complete, at a minimum, eight (8) hours of disability related training annually.
- Proof of on-site accessibility survey conducted by NAC.
- Proof of NAC final verification and certification of compliance.

Further, the Authority shall comply and cause all its employees, including contractors, sub-contractors, project owners, and management agents to comply with PRHFA's Civil Rights and Fair Housing Compliance Policy and all applicable measures provided for in the VCA.

## 6. Issuance of Tax Credits

### 6.1. Reservation of Tax Credits Beyond Actual Allocation Year

The Authority recognizes that the process to construct or rehabilitate housing projects in Puerto Rico may be arduous. Construction or rehabilitation of housing projects may occur over a longer period of time than they otherwise might have. The Authority also acknowledges that some projects, especially those participating in an extensive community undertaking might require a larger allocation of credits and placed-in-service dates may occur in different years.

The Authority recognizes, as well, that investors require a level of comfort that such projects will be completed and placed in service in the scheduled timeframes.

To take into account the unique facts and circumstances and concerns described above, and in order to assist with meeting the housing needs and goals of the public policy of Puerto Rico, while balancing the Authority's position with respect to any single large allocation of Tax Credits, the Authority may award a binding commitment in one year to make a carryover allocation for certain

percentages of Tax Credits in following years under certain circumstances (**Binding Commitment**) (Annex E).

Applicants may apply to reserve Tax Credits and sign a Binding Commitment with the Authority to allocate Tax Credits at a future date. To such end, the Authority may reserve Tax Credits or bind itself to allocate Tax Credits to a project during the taxable years following the year in which the application is made. Section 42(h)(1)(C) of the Code determines that a reservation or Binding Commitment to allocate Tax Credits in a future year has no effect on the state housing Tax Credit ceiling until the year in which the Authority makes the allocation.

The Authority might also consider entering into a Binding Commitment with an owner of a project, even if the project fails to meet one of the above categories, if the circumstances of the project, per the Authority's sole discretion, are deemed to require it.

Depending on the circumstances and in the Authority's sole discretion, projects with Binding Commitments may be required to file an application in the year the Tax Credits are committed and go through the Basic Threshold Qualification Process and comply with at least the Minimum Requirement of the Point Ranking System. In addition, the owner will not pay the Application Fee, but rather a Processing Fee equal to 0.50% of the annual Tax Credit requested will be included with the application.

In order for the applicant to preserve a Binding Commitment for an allocation of Tax Credits, the applicant must provide an updated application the year of the credits reservation; confirm that any information provided in the application remains true, correct, and complete in all material respects; or provide specific details for any exceptions as well as any other information that the Authority may reasonably request. If there are any material exceptions, the Authority reserves the right to revoke the Binding Commitment.

**6.1.1.** Tax Credit dollar amount will be determined at:

6.1.1.1. Initial Reservation of Tax Credits

6.1.1.2. Carryover Allocation

A development with a Binding Commitment that will not be placed in service by December 31<sup>st</sup> may be eligible for a LIHTC Carryover Allocation Agreement (**Carryover Allocation**).

To sign the Carryover Allocation, the owner must provide:

- any changes in the circumstances of the project (budget, design, and/or permitting)
- an Owner's Certification, disclosing any federal, state, or local subsidies that the applicant has received, or expects to receive, for the development and operation of the project

6.1.1.3. Placed-in-Service. See Section 6.3 for details.

**The Authority reserves the right to disqualify any applicant if it determines that construction will not be ready to begin within six months after the signing of the Carryover Allocation Agreement.**

## 6.2. Additional Tax Credits

The Tax Credit amount will not automatically be increased above the initial reservation request or allocation amount. If the owner of a project that received a Carryover Allocation of Tax Credits determines that additional credits are necessary to make the project financially feasible, the owner must apply for additional Tax Credits in a subsequent year or cycle. The owner will need to submit a complete package and a full fee.

For projects financed with volume-cap tax-exempt obligations, the Authority reserves the right, based upon pertinent circumstances, to reduce or waive the required fee for additional Tax Credits or the requirement of a complete package.

All restrictions and requirements of the original Carryover Allocation shall remain in full force and effect for the additional Tax Credits.

## 6.3. Placed-in-Service

Each project is required to achieve its placed-in-service date by the 31<sup>st</sup> of December of the second year after signing the LIHTC Carryover Allocation Agreement; if not, the Developer may lose the LIHTC. After Placed-in Service is reached, the Developer has one (1) year to certify full occupancy of the project; if not, the LIHTC will be prorated by the number of occupied units and the portion of vacant units may result in lost LIHTC.

The Authority will issue IRS Form 8609-Low-Income Housing Credit Allocation and Certification (Form 8609) after the placed-in-service date, and receipt and review of:

- 6.3.1. Certificate of Occupancy (*Permiso de Uso*).
- 6.3.2. Independent CPA Final Cost Certification of project development (Annex M).
- 6.3.3. Designer's Certification of Completion of Construction (Annex N).
- 6.3.4. Updated operating budget and 30-year pro forma cash flows.
- 6.3.5. Owner's Certification of any federal, state, or local subsidies received, or expected to be received, to develop and operate the project.
- 6.3.6. Authority's independent consultant physical inspection and cost certification review.
- 6.3.7. Any other document the Authority may determine as necessary.

The amount of Tax Credits allocated as set forth in Form 8609 may be different from the amount requested in the application, the amount specified in the Initial Reservation Letter or Binding Commitment, or the amount in a Carryover Allocation.

#### **6.4. Changes of Actual Development Costs or Other Circumstances**

The Authority reserves the right, in its sole discretion, to reserve or allocate fewer Tax Credits than requested in the application based on the information submitted by the applicant or any independent consultant and Section 42 requirements.

#### **6.5. Calendar Requirements**

##### **6.5.1. Carryover Allocation Requirements**

The Code requires more than 10% of the project's reasonable expected basis be incurred by the close of:

6.5.1.1. The carryover allocation calendar year, if Carryover Allocation is made before July 1<sup>st</sup>; or

6.5.1.2. The year after the date of the Carryover Allocation Agreement, if made after June 30<sup>th</sup>.

After the reservation process is final, the owner and the Authority must sign a Carryover Agreement allowing the carryover of Tax Credits. At the time of the execution of the Carryover Agreement, owners must have title of the property, or acquire such title within the next six months, and approval from all the corresponding governmental agencies to develop the project. The Authority requires expenditure of and cost certification of 10% of the costs to be submitted to the Authority within 1 year of the date of the Carryover Allocation (Annex L). All fees due to the Authority must be paid by that date.

#### **6.6. Placed-in-Service Date**

With respect to Carryover Allocations, the building must be placed in service within 24 months after the end of the carryover allocation calendar year.

**6.6.1.** For new construction and existing buildings, placed-in-service usually means the date the building receives a Certificate of Occupancy (*Permiso de Uso*).

**6.6.2.** For substantial rehabilitation, placed-in-service means the last day of the 24-month period (or shorter period if the rehabilitation is complete if the owner elects) for aggregating rehabilitation costs.

#### **7. Other Procedural Requirements**

The Authority will notify the Mayor of the Municipality where the project will be located of the proposal at the time of the Tax Credits' reservation and will allow a reasonable period to comment on the project.

#### **8. Time Frame**

Tax Credit applications will abide by the following reservation/allocation cycles. Additional cycles may be available if there are Tax Credits after the Authority exhausted its reservation/allocation process. The interested party may contact the Authority to ask for additional cycles, if any.

As directed by the public policy of Puerto Rico to leverage project funding from multiple sources, with underwriting criteria that will result in projects meeting its priorities, the Authority will release a NOFA to request Tax Credit Applications.

Any and all amendments to the application schedule, prior to the release of the NOFA, and any changes thereafter to the schedule, will be made known to the public through the Authority's website. If any of the due dates for application or reservation falls on a non-working day or on an official holiday, it will be moved to the following working day.

Notwithstanding any information that may be contained in the RFP and amendments thereto, respondents are responsible for obtaining all information required, thus enabling them to submit timely and complete responses to the requirements of the NOFA. Failure to obtain clarifications and/or addenda from the Authority will not relieve the respondent from being bound by any additional terms and/or conditions in the clarification and/or addenda. The Authority will not be responsible for respondent's failure to consider additional information contained therein in preparing the proposal.

### 8.1. Schedule of Application for 2024 Cycle

Event	Date
2024-QAP Draft Available for Public Comments	October 1, 2024
2024-QAP Public Hearing	October 8, 2024
2024-QAP Written Comments Deadline	October 11, 2024
Application Opening Date (after Governor's Approval and NOFA Release)	October 31, 2024
Advance Section 106 Review Submission Deadline	November 15, 2024
Application Closing Date	January 15, 2025
10% Cost Certification	The Authority requires expenditure of and cost certification of 10% of the costs to be submitted to the Authority within 1 year of the date of the Carryover Allocation (Annex L).

Cost Certifications for projects receiving allocations to be placed in service are due during the same calendar year of the application and 10% certification for projects receiving a carryover allocation. (Annexes L and M)

## 9. Projects Financed with Tax-Exempt Obligations

To the extent projects are financed with the proceeds of tax-exempt obligations subject to the annual volume cap limitation under Section 146 of the Code, such projects may receive an allocation of 4% Credits. These projects are not subject to the Annual Tax Credit Volume Cap. If fifty percent (50%) or more of the aggregate basis of a project (including land) is financed with the proceeds of such tax-exempt obligations, the entire project may be eligible for 4% LIHTC based on its qualified basis. If less than 50% of costs are financed with the proceeds of tax-exempt obligations, the projects may be eligible to receive 4% LIHTC on the portion of the qualified basis financed with tax-exempt obligations.

These projects will be subject to the evaluation of housing priorities, minimum thresholds discussed in Section 5.1 above, and the fees described in Section 11. They will not be subject to the Tax Credit allocation process but must score a minimum of 30 points in the Point Ranking System. Applicants

must include a letter from the lender stating the tax-exempt status of the obligations issued to finance the project and a certification from a tax attorney or CPA certifying that this requirement is met. If the Authority is the lender, such a letter will not be required.

The issuance of all 42(M) letters (**42(M) Letter** or **Initial Determination Letter**) (Annex R) by the Authority for 4% Credit allocations shall be subject to a determination by the Authority that the proposed project complies with the Basic Threshold Qualification Requirements and is otherwise consistent with this Plan, such consistency being determined by the following:

- Application Criteria. Tax-exempt obligation-financed projects must comply with the Basic Threshold Qualification Requirements, the Point Ranking System minimum requirement of 30 points, and other requirements for allocation under this 2024-QAP pursuant to Section 42(h)(4) of the Code.
- Issuance Criteria. Tax-exempt obligation-financed projects must also meet the issuance criteria adopted by the Puerto Rico Fiscal Agency and Financial Advisory Authority (**AAFAF**, by its Spanish acronym) as the Authority's fiscal agent in order to assure compliance in the issuance of obligations by the Authority, including but not limited to compliance with the PAB volume cap approved for the Authority.
- Credit Limitation. 4% Credits available to tax-exempt obligation-financed projects are also limited to an amount necessary for the financial feasibility of the project, as set forth in Section 42(m)(2)(A) of the Code.
- Debt Sizing. In accordance with the Section 42(m)(2)(A) of the Code, all tax-exempt obligation-financed projects shall include proposed financing terms that deploy 4% Credits effectively and minimally relative to other proposed sources of funds in a proposed development as determined by the Authority in its discretion.

Instead of a Carryover Allocation Agreement, the Authority will issue the 42(M) Letter (Annex R) stating the estimated amount of Tax Credits that the project is eligible for just prior to the closing of the issuance of the tax-exempt obligations, assuming all other LIHTC Program requirements have been or will be met.

After the development is completed and placed in service, the Owner must request the issuance of the project's IRS Form 8609 following the indications of Section 6.3 of this 2024-QAP.

## 10. Compliance, Fees, and Penalties

### 10.1. Procedure for Notification to IRS of Noncompliance

Federal legislation requires that the 2024-QAP include a procedure that the Authority will follow to notify the IRS of noncompliance with the program. The Authority will require owners to furnish annual certifications of qualified low-income tenants, including tenant income and rents charged, the number of qualifying low-income units, as well as any other information pertinent to determine compliance.

The specific requirements of the Authority to implement this mandate are covered in the Compliance Monitoring Plan, which is hereby incorporated and made a part of this Plan (Annex O).

In making the application for Tax Credits, the owner agrees that the Authority and its designees will have access to any project information. This includes physical access to the project, financial records, and tenant information for any monitoring that may be deemed necessary to determine compliance with the Code.

Owners are advised that the Authority is required to do compliance monitoring and to notify the IRS and the owner of any discovered noncompliance with Tax Credit law and regulations, whether corrected or uncorrected.

In addition, the Authority has implemented asset management oversight during the compliance period (first 15 years) to contribute to the success of the program. Among the procedures put into practice, the Authority will assess risk of noncompliance and evaluate financial performance. To facilitate these functions, management agents will periodically provide projects' trial balances and agree to maintain the standard HUD Chart of Accounts in their accounting systems (Annex B). Finally, the Authority will require annual audited financial statements. To assist the auditors in reporting on audits of housing projects, the Authority will prefer them prepared in accordance with HUD Consolidated Audit Guide (**HUD Guide**) and at a minimum include an Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Financial Statements Performed in Accordance with Government Auditing Standards. Excerpts from the HUD Guide are included in Annex B for reference.

## 11. Fees

The application package costs \$100 and includes the 2024-QAP, Compliance Monitoring Plan, Procedural Steps, and Instructions. The Authority will also charge the following fees:

### 11.1. Application-Related Fees

**11.1.1. Tax Credit-Filing Fee.** One thousand-dollar (\$1,000) filing fee. This is a **non-refundable and non-transferable payment**, which shall be submitted along with the application, regardless of the result of the Authority's evaluation and determination.

**11.1.2. Tax Credit-Application Fee.** Two and a half percent (2.5%) of annual amount requested application fee. This is a **non-transferable fee**, which shall be submitted along with the application. Nonprofit participants might pay 1% at submission of application and the balance within 60 days of the initial submission. The application fee will be waived, up to the amount previously paid, to previous participants that are re-applying for the same project that did not receive a LIHTC reservation during the previous NOFA. In its sole discretion, the Authority may consider the **return of half of the fee amount** if the project is not awarded a reservation of credits.

### 11.1.3. HOME/HTF Program Application Fees

11.1.3.1. CHDO's: \$0.00

11.1.3.2. One-half of 1% (0.50%) of requested amount, with a minimum payment of two thousand and five hundred dollars (\$2,500) and a maximum of ten thousand dollars (\$10,000). This fee is non-refundable and non-transferable.



**11.1.4. Projects with Binding Commitments** will be charged a processing fee of one-half of 1% (0.50%) of the annual Tax Credit requested.

**11.1.5. Projects Using Tax-Exempt Obligations to Acquire 4% LIHTC**

11.1.5.1. **Origination Issuer Fee.** 25 basis points of the amount of debt issued (upfront).

11.1.5.2. **Annual Issuer Fee.** 12.5 basis points of outstanding tax-exempt obligations (in arrears).

11.1.5.3. **Atypical transactions** (under the Authority's discretion) will double amounts above, to 50 basis points and 25 basis points, respectively.

**11.2. Allocating Fee**

**One and a half percent (1.5%) of the total ten-year allocated amount.** The allocating fee will be paid at the time the allocation is made through certified or manager's check. In case of Carryover Allocations under Section 42, the fee will be paid at the time of signing the agreement through certified or manager's check. Allocation fees are neither refundable nor transferable.

**11.3. Monitoring/Asset Management Fee**

**11.3.1.** If a credit allocation is made, the Authority will charge ninety dollars (\$90) (\$40 for monitoring plus \$50 for Asset Management) per each LIHTC unit during the compliance period (first 15 years). During the extended period, the Authority will charge thirty-five dollars (\$35) of for monitoring per each LIHTC unit. This amount will be due and payable by January 31st of each year.

**11.3.2.** Projects with HOME/HTF grants will be charged fifty dollars (\$50) per HOME unit during the HOME compliance period. This charge is due and payable by January 31<sup>st</sup> of each year.

The Authority may revise the above fees as necessary to ensure they cover the Authority's processing expenses and compliance monitoring.

**12. Penalties and Other Fees**

If a Sponsor, Owner, Developer, or Consultant has a **past due fee** (regardless of the type) in a previous project, the Authority will not reserve credits for the new project until the account is paid in full.

In any litigation, arbitration, or other proceeding arising from, as a result of, or pursuant to this 2024-QAP and/or the resulting Tax Credit allocation cycle, selection process, or award determination under any participating program, or any other proceeding arising from or as a result of or pursuant to any noncompliance during the construction and/or operation of a project, when the Authority appears as a party, intervener, or *amicus curiae*, **the sponsor and/or owner and/or developer shall reimburse the Authority** reasonable attorney's fees, costs, and expenses incurred, regardless of which party initiated the litigation, arbitration, or other proceeding.

### **13. Recordkeeping and Retention**

For each qualified low-income building in the project, owners must maintain records that provide specific information for each year of the compliance period. The failure to maintain these records or otherwise comply with the requirements of the Compliance Monitoring Plan may result in the issuance of IRS Form 8823 and the eventual recapture of Tax Credits. All applicants are urged to review the Plan and require that project managers have a thorough knowledge of these requirements under Section 42 of the Code and the Plan.

### **14. Compliance and Delegation**

Compliance with the requirements of Section 42 of the Code is the responsibility of the owner of the building for which the Tax Credits were allocated. The Authority's obligation to monitor for compliance with the requirements of Section 42 of the Code does not make the Authority liable for an owner's noncompliance.

The Authority may choose to delegate all or a portion of its compliance monitoring responsibilities to an agent or other private contractor. This option, if chosen, does not relieve the Authority of its obligation to notify the IRS of noncompliance.

### **15. Scope and Future Amendments**

Federal legislation directs the Authority to allocate only that amount of Tax Credits required to make a project economically feasible. The Authority's determination is discretionary and in no way constitutes a representation or warranty, express or implied, to any applicant, sponsor, developer, investor, syndicator, or third party as to the feasibility of a given project, or to the project owner, investors, lender, or third party that its allocation determines that the project adheres to the Code, Treasury regulations, or any other applicable laws or regulations.

The federal laws governing the Tax Credit Program are subject to change. Final interpretations of certain rules and regulations governing the Program may not yet have been issued by the U.S. Department of the Treasury. In the event that any portion of this 2024-QAP should conflict with the Code, amendments made thereto, or federal regulations promulgated thereunder, the federal regulations shall take precedence. If any portion of this 2024-QAP is invalid due to such conflict, the validity of the remaining portions will in no way be impacted, affected, or prejudiced. The Authority reserves the right to resolve conflicts, inconsistencies, or ambiguities, if any, in this 2024-QAP or which may arise in administering, operating, or managing the allocation of LIHTC.

The Authority reserves the power to administer, operate, and manage Tax Credit allocation in all situations and circumstances, both foreseen and unforeseen, in the 2024-QAP. No member, executive, officer, employee, or agent of the Authority, including other agencies of the Commonwealth of Puerto Rico, or any official of the Commonwealth, including the Governor thereof, shall be personally liable respecting any matter or matters arising out of, or in relation to, the Tax Credits.

I, Pedro R. Pierluisi Urrutia, Governor of Puerto Rico, hereby approve the Low-income Housing Tax Credit Allocation Plan 2024 for the Government of Puerto Rico, adopted by Puerto Rico Housing Finance Authority, a subsidiary of the Government Development Bank for Puerto Rico, as the State Housing Credit Authority under the provisions of Section 42 of the Internal Revenue Code of 1986, as amended.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the Government of Puerto Rico, in San Juan, Puerto Rico, this \_\_\_\_ day of \_\_\_\_\_, 2024.

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**GOVERNOR**