JANUARY 28, 1991

OHIO HOUSING FINANCE AGENCY
1991 LOW-INCOME HOUSING TAX CREDIT
STATE ALLOCATION PLAN

I. Introduction - Legislative Requirements For The State Allocation Plan

In extending the Low-Income Housing Tax Credit Program, Congress has mandated that housing credit agencies adopt plans for the allocation of credit among projects. This state allocation plan must be approved by the Governor.

According to section 42 (m)(1)(B) of the Internal Revenue Code, allocation agencies must adopt an allocation plan which:

1. Sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions;

2. Gives preference in allocating housing credit dollar amounts among selected projects to -

    a. projects serving the lowest income tenants,
    b. projects obligated to serve qualified tenants for the longest periods;

3. Gives the highest priority to those projects where the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries unless granting such priority would impede the development of projects in hard-to-develop areas;

4. Provides a procedure that the agency will follow in notifying the Internal Revenue Service of noncompliance with the provisions of the tax credit program when the agency becomes aware of such noncompliance.

Selection criteria that should be addressed in the plan include: project location, housing needs characteristics, project characteristics, sponsor characteristics, participation of local tax-exempt organizations, tenant populations with special housing needs and public housing waiting lists.

The requirements of this plan apply not only to projects receiving tax credits under the state allocation cap, but also to tax-exempt bond financed projects which are eligible to receive credits outside the cap. Tax-exempt bond financed projects are those in which 50 percent or more of their basis is financed with tax-exempt bonds. These projects must satisfy the requirements for an allocation of a housing credit dollar amount discussed in Section V of the plan.

In 1991, approximately 13.6 million is expected to be available in tax credit authority for the State of Ohio. The exact amount is based on $1.25 per capita. Census Bureau population estimates are needed for the exact determination of the State's allocation cap. Upon further review the exact credit authority for the State will be determined. In addition, $1.5 - $2 million in unreserved tax credits from 1990 will be carried forward into 1991, thus increasing the allocation amount to $15.1 - $15.6 million.

II. LIHTC Time Line

The OHFA will issue reservations for tax credits in two competitive rounds. The maximum amount of credit authority which will be reserved in each round is as follows:

Up to 50% in Round I;
Up to 100% in Round II;

After Round II, a waiting list will be held open until October 11, 1991, for the top 10 projects from Round II which were not accepted. If reserved projects drop out and credit becomes available, these projects can move in to take their place.

OHFA has established the following time line for the Low-Income Housing Tax Credit Program:

February 8, 1991	Applications available to the public
March 8, 1991	Round I deadline for submission of applications
April 30, 1991	Last day of which conditional reservations will be issued for Round I projects
June 14, 1991	Round II deadline for submission of applications
July 31, 1991	Last day of which conditional reservations will be issued for Round II projects
August 30, 1991	End of 120 day compliance period for Round I projects
October 11, 1991	End of waiting list period
November 29, 1991	End of 120 day compliance period for Round II projects
November 29, 1991	Final date for 10 percent carryover requirement to be met

Projects which are not accepted can reapply in a succeeding Round, however, a new application must be submitted along with a new application fee.

III. Threshold Criteria and Processing Procedures

In order to assure that all applications received have a high probability of completion, OHFA has established the following threshold criteria that must be met **or** the application will be returned without further review:

1. The project must be a qualified residential rental project which meets occupancy and rent restrictions of Section 42 of the Internal Revenue Code of 1986, as amended. Therefore at least 20% of the units must be reserved for tenants at 50% or less of Area Median Income adjusted for family size or at least 40% of the units must be reserved for tenants at 60% or less of Area Median Income adjusted for family size. Rent restrictions, however, will be based on the number of bedrooms per unit rather than actual family size.

2. A completed application along with correct application fee - any applications that are not complete will be automatically rejected. It should be noted that the organization applying for the credit allocation will be expected to have an ownership interest in the project, be at least a co-general partner and have a contractually mandated role in decision-making about project management.

3. A complete development team already in place consisting of:

    - developer;
    - general partner;
    - manager/management company.

    The following are requested at time of application, but are not mandated:

    - contractor;
    - consultant;
    - tax attorney;
    - sponsoring organization.

4. <u>Site Control</u> as evidenced by one of the following:

   - •ownership (by general partner and/or developer);
   - •option to purchase;
   - •purchase contract;
   - •land contract;
   - •long term land lease;
   - •preferred developer status.

   There is one exception to this rule. For non-profit sponsored scattered site projects with 6 or more sites, the Agency will require that at least one third of these sites be under control at time of application and that the remaining sites be under control by the end of the 120 day compliance period.

5. <u>Demonstrated financial ability to proceed</u> with development must be shown . The <u>options</u> to show financial ability are:

   a. At least a conditional commitment for construction and permanent financing as evidenced by a commitment letter from a financing entity.These letters must list, at the minimum, projected loan amount, term of loan , and interest rate. In addition, the commitment letter may include only the following conditions:

      - •obtaining other financial commitments (sponsor must list anticipated sources and approval dates);
      - •obtaining FHA 221 (d)(4), Freddie Mac or other mortgage guarantees (sponsor must provide evidence that they have acquired at least a conditional commitment at the local level for these guarantees);
      - •obtaining LIHTCs;
      - •final acquisition of site;
      - •complete drawings and/or specifications;
      - •firm cost estimates;
      - •appraisal;
      - •environmental review.

      Conditions other than these will be evaluated on a case by case basis;

   b. Proof that the developer can proceed with development out of existing resources or letters of credit. In either case a letter attesting to the cash availability or credit availability from a financial institution would be required (this option is only open to those small developments in which cash will be the permanent financing source);

   c. For FmHA projects, an AD622 commitment, <u>along with a letter from the Farmers Home Administration</u> attesting that they have received the sponsor's full application and are currently processing it, will be required.

If the above thresholds are met, the application will go to the competitive review stage (see Section IV) where it will be ranked among other applications. If it is then chosen to receive tax credits, the project will be evaluated to determine credit amount (see Section V) and then given a conditional reservation. This process will take place within approximately 45 days after the application submission deadline. If the application is not accepted during the competitive review stage, a notice of rejection will be sent to the project sponsor.

NOTE. Project sponsors must provide evidence that they have acquired property, received a firm commitment for construction financing, and received a firmer commitment for permanent financing within 120 days after a conditional reservation by OHFA. No extensions are permitted for this time period. The only exceptions to the 120 day compliance period are for FmHA projects, FHA insured projects, and scattered site projects sponsored by non-profit developers. In addition, all projects must begin on site construction within 30 days of the end of the compliance period. Again, no extensions are permitted. The latest date by which any project sponsor can acquire property and begin construction is November 29, 1991. If these conditions are not met, the tax credit reservation will be rescinded and the credits will be reallocated in later rounds or carried forward to 1992.

Exceptions. FmHA projects will be given until October 11, 1991 to receive an Obligation of Funds and acquire property and until November 8th to begin construction. FHA insured projects will be given 150 days (or until November 29th, whichever comes first) to receive a Firm Commitment and acquire property and will be given another 30 days (or until November 29th, whichever comes first) to begin construction. Finally, non-profit sponsored scattered site projects, which can provide evidence of financial ability, must follow a pre-approved schedule of site acquisition and construction start and will be given until November 29th to meet these conditions for all sites. Continual progress must be made throughout the year to meet this pre-approved schedule or the tax credit reservation will be rescinded.

Once the project meets all conditions and starts construction, the tax credit amount will be redetermined (see Section V) and a binding commitment for tax credits will be issued. Upon project completion, submission of a signed permanent loan commitment, and submission of acceptable cost verifications, final determination of tax credit amount will be made and 8609 tax forms hence issued. Projects that are not complete by the end of the year, but can certify that 10 percent of the project's costs have been expended by November 29, 1991 will be given Carryover Allocation Certificates.

In addition, prior to any project receiving 8609 tax forms or Carryover Allocation Certificates, the project owner will be required to sign a land use restriction agreement with OHFA. This agreement will ensure that the project will be maintained as a qualified rental housing project for the length of time required by law and that the future sale of the project will be carried out according to program guidelines.

IV. Competitive Review

A. Housing Needs and Priorities

Each year the Ohio Housing Finance Agency in cooperation with the Department of Development, Office of Local Government Services, Office of Energy Conservation, Office of Community Services, Ohio Department of Aging, Ohio Department of Mental Health, Ohio Department of Mental Retardation and Developmental Disabilities and the Ohio Civil Rights Commission participate in the evaluation of housing needs in the State. In addition, there is a review of existing activities and their impact on housing in the State. Critical needs identified for the State of Ohio in the 1989-1990 Ohio Housing Plan include:

1) Affordable rental housing units for low-income households;

2) Preservation and improvement of existing private and public affordable housing units;

3) Affordable housing for families, especially those needing three or more bedrooms;

4) Permanent affordable housing for homeless families and individuals;

5) Housing for persons with mental disabilities, consistent with the Ohio Department of Mental Health's "Housing as Housing" Policy;

6) Housing accessible to persons with physical disabilities; and

7) Affordable housing for the elderly, which includes support services.

In addition , the Plan identifies a need for preserving housing in urban areas and constructing housing in rural areas, and also creating housing at locations which will provide greater housing choices for low-income families outside areas of minority concentration. For a full explanation of OHFA's "Policy Statement on Fair Housing and Integrated Communities," see Attachment "A."

B. Competitive Criteria

Having identified the housing needs for the State of Ohio, OHFA has developed an allocation weighting system to be used in making low-income housing tax credit reservations. The following established competitive criteria and their point allocations will be further clarified in the following pages.

	UP TO:
Location	15 points
Project Characteristics	40 points
Sponsor Characteristics	25 points
Participation of Local Tax Exempt Organizations	5 points
Tenant Populations with Special Housing Needs	10 points
Service to Tenants on Public Housing Waiting Lists	5 points
	100 points

Please note that under project characteristics, projects serving the lowest income tenants and projects with the longest period of low-income use are given priority.

For the non-profit set-aside, also note that these criteria will be strictly adhered to during Round I. However, if the set-aside has not been met upon completion of Round I, OHFA may at its own disgression waive the criteria in Round II. In addition, the OHFA reserves the right to adjust the points of the ranking criteria in later rounds if it is discovered that the ranking system greatly favors or disadvantages any particular type of project.

1. Project Location - maximum 15 points

- Priority will be given to projects located in qualified urban and rural census tracts as defined by Congress and other officially recognized distressed areas (as determined by the Ohio Department of Development);

- Consideration will be given to projects located in the following metropolitan areas, which historically have not received a substantial amount of credit: Akron, Canton, Toledo, and Youngstown;

- Consideration will be given to projects which meet other locally identified market needs and to those which will reduce the concentration of low-income minority or special needs populations;

- New Construction and Acq/Rehab projects with 40 or more units should provide a <u>professional</u> market study to support their projects or points could be withheld in this section.

2. Project Characteristics - maximum 40 points

Priority will be given to projects with the following characteristics:

- Initial rent structure that will be affordable to persons at or below 50% of Area Median Income;

- Sponsor has current plan to continue low-income use for the project for more than 15 years and can demonstrate that measures have been taken to ensure this (sponsors must agree to waive their right to terminate the compliance period under the provisions of Section 42 (h) as amended);

- A per unit cost which is reasonable for the area the project is being built;

- At least 40% of units are designed as three or four bedroom units or single room occupancy units **or** the project design reflects a bedrooms per unit mix which corresponds with a locally identified housing need, such as a public housing waiting list or a professional market study;

- Project will meet or exceed energy efficiency standards as set by the Office of Energy Conservation, Ohio Department of Development;

- Involves the rehabilitation of vacant units in urban communities **or** the construction of new units in rural communities;

- Includes amenities that will improve the quality of life.

In addition, projects involving the acquisition and rehabilitation of existing units must perform rehabilitation costs of at least $3000 per unit or 10% of project costs, which ever is greater. For projects which involve the acquisition of existing units having a rental assistance contract with HUD or FmHA, the Agency will review the term of the project's contract to determine if a tax credit allocation will substantially extend the term of the project's low income use and will perform a review to ensure that the transfer of units is not solely to receive tax credits. In either case, the Agency reserves the right to deny acquisition credits.

3. Sponsor Characteristics - maximum 25 points

Priority will be given to sponsors who have:

- A Development Team with demonstrated capacity to create, manage, and maintain housing units (preference given if experience is with low-income units);

- A positive track record, including other members of Development Team (Team members will be asked about defaults or foreclosures. Misrepresentation will be grounds for automatic loss of credits.);

- Prior tax credit program experience;

- Prior state program experience.

4. Participation of Local Tax Exempt Organizations - maximum 5 points

Priority will be given to:

- Projects that are sponsored by a non-profit and include financial participation from one or more of the following sources:

  Local dollars from city or county government;
  Tax abatements from local government entities;
  Community Development Block Grant dollars;
  Foundation grants;
  Public Housing Authority Section 8 participation;
  Job Training Partnership Act;
  State of Ohio Programs:
  - OHFA 403 Rental Housing Grant Program
  - Energy Conservation Grant Program
  - Office of Local Services, Community Development Block Grant, Comprehensive Housing Programs
  - OHFA Development and Seed Money Loan Programs
  - Non-profit Development Organization (CDC) Grant Program
  - State Transitional and Permanent Housing for Handicapped Homeless Programs

The Agency reserves the right to consider financial participation from other sources.

•The Developer must demonstrate that this participation results in either more low-income units, longer low-income use, or more affordable low-income rents.

5. Tenant Populations with Special Housing Needs - maximum 10 points

Priority will be given to:

•Projects which serve one or more of the following populations by providing at least 30% of the units to:

Single parent households;
Persons with physical disabilities;
Persons with mental or developmental disabilities;
Frail or non-independent elderly requiring special support services;
Homeless individuals or families;
(For definitions of these special populations, see Attachment "B");

•Projects that have a marketing plan and/or placement plan which shows how proposed occupancy can and will be achieved;

•Projects with units designed for the target population;

•Projects with services available to tenants with special needs that are assured through either an agreement with a local provider or demonstrated sponsor capacity.

6. Service to Tenants on Public Housing Waiting Lists - maximum 5 points

Priority will be given to:

•Projects which have an agreement with the Housing Authority or City to accept referrals of tenants from the appropriate waiting lists.

Each application will be reviewed and assigned points for compliance with the previously identified allocation criteria. Each application will be ranked based on the points received. On the basis of the ranking, projects will be selected for reservation of credits.

V. Review and Evaluation

Once a project is selected to receive a reservation of credits, the OHFA must also evaluate each project (including tax exempt bond financed projects) to insure that the project receives only the amount of credit necessary to assure project feasibility and viability throughout the credit period. The agency is required to perform the evaluation three times: at the time the application is received, at the time of reservation (binding commitment stage) and at the time the project is placed-in-service.

The requested reservation contained in the application will be the basis against which the state will determine the actual reservation to be made. The state determined reservation will not necessarily equal the amount requested in the application. All projects will be evaluated to determine actual credit amount on the basis of the following criteria:

a) the cost per unit relative to the cost of comparable units created elsewhere in the state;

b) the percentage of the developers fee, builders profit, return on investment and other related factors as they compare to what the OHFA deems reasonable;

c) the relative percentage of tax credit generated investment spent on hard project costs rather than payments to intermediaries (such as syndication fees);

d) the amount of investment which can be raised per $1 of credit; and,

e) the size of the financing gap that needs to be filled to make the project feasible and viable throughout the credit period.

After the project is placed in service, and prior to receiving 8609 tax forms, the sponsor must submit acceptable cost certifications to the Agency supporting the total cost of the project. This is when the final tax credit allocation amount will be determined by the Agency. The Agency may also require certification of costs expended by Carryover projects before November 29, 1991, in order for project sponsors to receive a Carryover Allocation Certificate.

When a project receives an 8609 tax form or a Carryover Allocation Certificate, each building in the project will receive a Building Identification Number (BIN). Those buildings receiving both an acquisition and rehabilitation credit will receive one BIN for both credit types.

Under the legislation, there is a possibility of receiving credit reservations based on 130% of qualified expenditures. The increased basis is allowed in areas of high cost. The high cost areas are defined as qualified census tracts and difficult development areas. The US Department of Housing and Urban Development and the Ohio Housing Finance Agency have determined areas for this exception. Applicants may request the higher basis, but the state reserves the right to determine the credit allocation amount independent of the requested reservation.

VI. Set-Aside

Congress mandates that ten percent (10%) of the annual credit authority be reserved for non-profit housing organizations that materially participate in the development and operation of qualified low income housing projects. This set-aside will be approximately $1,360,000 in 1991. If non-profits do not fully utilize this set-aside, it can be carried forward; however, it <u>cannot</u> be used for anything other than projects sponsored by non-profit general partners. It should be noted that non-profits can receive credits from the set-aside or from the general tax credit allocation authority.

Competitive criteria will be applied to non-profit applicants in Round I. They will be applied in Round II if applications exceed the remaining balance. If not, the Agency reserves the right to waive the criteria so as to use the entire non-profit set-aside.

VII. Restrictions

To assure that no single user can receive a disproportionately large share of tax credits, OHFA restricts any user to $1,000,000 in annual tax credit under the State allocation cap and $150,000 from the non-profit set-aside. If a user receives credits from both the non-profit set-aside and general allocation, the total received cannot exceed $1,000,000. This restriction will be held to whether the user owns one or more projects or is involved as a general partner in one or more projects.

In addition, scattered site projects which are financed under one financing plan will be considered one project and will be required to pay only one application fee; however, the area covered by the project must be reasonable, such as within one metropolitan area or one county. Projects with sites in adjacent counties may be allowable if the project is located near the border of two or more counties. The OHFA reserves the right to determine what is reasonable.

VIII. Noncompliance

The OHFA is currently considering procedures for reviewing projects and notifying the IRS of noncompliance with the provisions of the tax credit program. Specific procedures will be created before the end of the year.

IX. Appeals Process

The OHFA has developed an appeals process for project sponsors who were not chosen during the "Competitive Review" stage and for those who did not receive the amount of credit they felt they were entitled to during the "Review and Evaluation" stage. The applicant must submit their appeal in writing to the Director of the Office of Housing Development. In the appeal they must state their objections to the Agency's determinations and give specific reasons why they felt they were dealt with unfairly. Any back-up documentation to help support their case would be appreciated.

If the Director feels their argument has merit, the project will be reprocessed to determine whether it should receive a conditional reservation of tax credits or increased credits (as applicable). If the appeal is not resolved at this time, then it will go to the Executive Director of the OHFA, and he will have the final determination.

ATTACHMENT "A"

OHIO HOUSING FINANCE AGENCY

POLICY STATEMENT ON FAIR HOUSING AND INTEGRATED COMMUNITIES

The Ohio Housing Finance Agency was established "to create or preserve opportunities for safe and sanitary housing and to improve the economic welfare of the state."[1] In carrying out this purpose, OHFA sells tax exempt bonds to purchase single family residential mortgages, and to make loans for multifamily residential housing. Since its creation, the Ohio Housing Finance Agency has assumed the role as the lead state agency for housing.

Fair housing is implicit in the Agency's purpose. OHFA must follow state and federal fair housing laws.[2] In addition, OHFA seeks to expand housing opportunities for people who are unable to secure decent, affordable housing in the private marketplace. OHFA's policy on fair housing and integrated communities has three aspects.

Non-Discrimination - OHFA will assure that its programs are available on a non-discriminatory basis. OHFA will allocate funds and its agents will make assistance available without discrimination on the basis of race, color, ancestry, national origin, religion, sex, or physical handicap. OHFA will comply with state and federal fair housing laws and will look to the Ohio Civil Rights Commission, the U.S. Department of Housing and Urban Development, and the Courts to uphold those laws.

Affirmative Marketing - OHFA will affirmatively market its programs in order to assure that all eligible persons, including racial and ethnic minorities and other people with special needs have an opportunity to participate in its programs. The purpose of affirmative marketing is to remedy the accumulated effects of discrimination which have limited housing opportunity for minorities and people with special housing needs. It is accomplished through outreach, information, and promotional activities which are targeted to affected groups.

Reducing Segregation - OHFA has determined that racial segregation may have a bearing on the availability of decent housing and economic opportunity.[3] Furthermore, OHFA concludes that there is a positive relationship between racial integration in housing and the Agency's purpose to provide safe and sanitary housing and to improve economic welfare for Ohioans. Therefore, OHFA will endorse activities which expand housing choices for all Ohioans and encourage people to consider residential integration. OHFA may respond to local preferences for special allocations of bond proceeds for the purpose of encouraging residential integration, provided that these activities are not coercive, but voluntary and persuasive, and that they expand rather than restrict housing choice for minorities.

1 Article VIII, Section 14, Ohio Constitution
2 Am. Sub. HB 5, and Title VIII, U.S. Civil Rights Act
3 Ohio Housing Plan, 1985

ATTACHMENT "B"

DEFINITIONS

"Special needs populations can be defined to include the elderly, people with mental illness or some type of developmental disability, low income renters, minority populations, people who are homeless or at risk of being homeless, and people with physical disabilities. These populations have additional obstacles in securing their housing, paying substantially more than the population as a whole and having more difficulty maintaining their housing, or purchasing the housing of their choice, either rental housing or home ownership."

1989-90 Ohio Housing Plan

Projects should target housing and services to one or more of the following:

* Single parent households. One parent families that are heads of households through separation, widowhood, divorce or never married and have custody of the child or children at least during the school year.

* Large low-income families. Families needing at least three bedrooms and having annual incomes at or below 50% of the area median income.

* Very low-income single adults. Those adults whose annual income is below 50% of the area median income for family size.

* Physically handicapped persons. Those people who have physical impairments which substantially limits one or more major life activities.

* Mentally Retarded/Developmentally Disabled. Those who have a mental or psychological impairment which substantially limits one or more major life activities.

* Mentally Ill persons. Those persons who have long term persistent mental illnesses as outlined in the Ohio Department of Mental Health 508 Criteria.

* Homeless persons or families. Those who lack a regular and adequate nighttime residence, and are unable to secure permanent housing; or a person/family who is at risk of becoming homeless.

* Persons recovering from drug and/or alcohol dependency. Those who are recovering from alcohol and/or substance abuse.

* Frail elderly persons or households. Elderly person/family (one family member must be at least 60 years of age) in need of support services to enable them to live as independently as possible and avoid inappropriate institutionalization.