

**CHAPTER 80
NEW JERSEY HOUSING AND MORTGAGE
FINANCE AGENCY**

Authority

N.J.S.A. 55:14K-5g.

Source and Effective Date

R.1995 d.281, effective June 5, 1995.
See: 27 N.J.R. 986(a), 27 N.J.R. 2190(a).

Executive Order No. 66(1978) Expiration Date

Chapter 80, New Jersey Housing and Mortgage Finance Agency, expires on April 17, 2000.

Chapter Historical Note

Chapter 80, New Jersey Housing and Mortgage Finance Agency, was originally titled "Housing Finance Agency" and became effective March 4, 1977 as R.1977 d.71. See: 9 N.J.R. 62(c), 9 N.J.R. 164(c). Amendments were filed and became effective May 30, 1980 as R.1980 d.234. See: 12 N.J.R. 170(c), 12 N.J.R. 388(a). The Housing Finance Agency and the Mortgage Finance Agency merged and N.J.A.C. 19:1 was incorporated under this chapter, effective May 20, 1985 as R.1985 d.241. See: 17 N.J.R. 505(a), 17 N.J.R. 1258(b). Chapter 80 was readopted without change as R.1990 d.248. See: 22 N.J.R. 277(b), 22 N.J.R. 1556(a). Chapter 80 was readopted as R.1995 d.281, effective June 5, 1995. Subchapter 33 was adopted as R.1995 d. 281, effective June 5, 1995. See: 27 N.J.R. 986(a), 27 N.J.R. 2190(a). See: Source and Effective Date.

See subchapter and section levels for further amendments.

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APPENDIX

SUBCHAPTER 1. GENERAL PROVISIONS

5:80-1.1 Authority

These regulations are issued under and pursuant to the authority of the New Jersey Housing and Mortgage Finance Agency Law of 1983 constituting Chapter 530 of the Laws of 1983, N.J.S.A. 55:14K-1 et seq.; specifically N.J.S.A. 55:14K-5(g).

5:80-1.2 Purpose and objective

(a) These regulations are established to effectuate and shall be applied to accomplish the general purposes of the New Jersey Housing and Mortgage Finance Agency including:

1. Assuring the availability of rental and owner occupied housing;
2. Stimulating the construction, rehabilitation and improvement of adequate and affordable housing in the State so as to increase the number of housing opportunities for New Jersey residents particularly those of low and moderate income;
3. Enhancing the production capacity of the private sector in meeting the housing needs of residents of New Jersey;
4. Assisting in the revitalization of the State's urban areas; and
5. Responding to changing housing demographic and economic circumstances for the development of innovative and flexible financing vehicles.

5:80-1.3 General definitions

"Act" shall mean the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55:14K-1 et seq.

"Collateral" shall mean with respect to any Loan those securities, mortgages or other instruments defined as eligible pursuant to the terms of the Assignment of Collateral and Trust Agreement relating to such Loan.

"Collateral Requirement" shall mean, as of any date of calculation and with respect to any Loan, the amount at which Collateral securing such Loan is required to be maintained pursuant to the terms of the Assignment of Collateral and Trust Agreement relating to such Loan.

"Home Improvement Loan Program Commitment" shall mean the aggregate unpaid principal amount of Home Improvement Loans which a Mortgage Seller offers to deliver and sell to the Agency and the Agency agrees to purchase, such sale and purchase to be made under a Note Purchase Agreement.

"Housing Project" or "Project" shall mean any work or undertaking other than a continuing care retirement community, whether new construction or rehabilitation which is designed for the primary purpose of providing rental housing of more than 25 dwelling units.

"Housing Sponsor" shall mean any person, partnership, corporation or association to which the Agency has made or proposes to make a loan, either directly or indirectly through an institutional lender, for a Housing Project.

"Mortgage Purchase Agreement" shall mean an agreement, entered into between a Mortgage Seller and the Agency, under which the Mortgage Seller agrees to deliver and sell to the Agency and the Agency agrees to purchase Mortgage Loans.

"Mortgage Servicing Agreement" shall mean an agreement entered into between a Mortgage Seller or other person acceptable to the Agency, under which the Mortgage Seller or other person agrees to service the Mortgage Loans purchased by the Agency from such Mortgage Seller under a Mortgage Purchase Agreement.

"Note Purchase Agreement" shall mean an agreement, entered into between a Mortgage Seller and the Agency, under which the Mortgage Seller agrees to deliver and sell to the Agency and the Agency agrees to purchase single-family home improvement loans.

"Notice of Acceptance" shall mean the Notice of Acceptance by the Agency to the mortgage Seller of an Application.

"Primarily residential in character" as set forth in N.J.S.A. 55:14K-3(e) shall mean:

1. With regard to an individual unit, structure, or property, that at least 60 percent of the net sheltered area, not including areas for circulation, utilities and common space, is or will be upon completion of scheduled improvements used exclusively as a residence for one or more persons; or

2. With regard to a Project or area, that at least 60 percent of the properties in the area or 60 percent of the floor area in the Project, not including areas for circulation, utilities, and open space, consists of units, properties, or structures devoted primarily to residential use.

"Single family mortgage loan" shall mean any mortgage loan for a structure which contains no more than four dwelling units at least one of which is owner-occupied and may include an owner-occupied single dwelling unit within a condominium or cooperative apartment. Those areas which are non-residential in use shall not exceed those specified by the Federal Housing Administration Property Standards for one or two living units as in effect from time to time.

"Single family home improvement loan" shall mean an eligible loan for the rehabilitation or improvement of a unit or structure which contains no more than four dwelling units where at least 90 percent of said structure or single dwelling unit is devoted to residential use, and at least one such dwelling unit is owner-occupied.

"Term sheet" shall mean the statement of terms, constituting part of the Notice of Acceptance of a Commitment, governing the sale and purchase of Mortgage Loans pursuant to a Commitment.

5:80-1.4 Regulations regarding Housing Projects

(a) All Agency financing in connection with Housing Projects, including eligible loans and loans to lenders made with regard to Housing Projects, shall be subject to the regulations in subchapters 2 through 9, 17 and 18. Where appropriate, other regulations within this chapter are specifically made applicable to Housing Projects. The regulations of subchapters 2 through 9, 17 and 18 shall not apply to:

1. The construction or rehabilitation of:
 - i. Continuing care retirement communities;
 - ii. Nonresidential facilities or structures (other than those permitted within a housing project);
 - iii. Boarding houses;
 - iv. Residential developments having 25 dwelling units or less; or

2. The improvement, acquisition, operation, maintenance or repair of Housing Projects or any other structure or improvement financed by the Agency (other than that determined by the Agency to constitute substantial rehabilitation). Notwithstanding the foregoing the Agency may require applicable provisions of N.J.A.C. 5:80-4 to apply to any such improvement, maintenance or repair, if it deems such application necessary; or

(c) The housing investment sale shall include an assignment from the seller and an assumption by the buyer of all existing project indebtedness. If the sale includes any supplemental financing, the amount of such financing shall not exceed the debt that the project can reasonably sustain from project income through the remainder of the Housing Assistance Payments (HAP) contract or, if no HAP contract exists, through the remainder of the original mortgage term, without jeopardizing the viability of the project as a low-income project for the remainder of the original mortgage term. The Agency's approval of a sale requiring supplemental financing shall be subject to the receipt of an opinion by nationally recognized bond counsel, in form and substance satisfactory to the Agency and the Attorney General, that such financing does not adversely affect the Federal and State tax treatment of any outstanding bonds, notes or other obligations of the Agency. The cost of such opinion shall be borne by the seller.

(d) As a condition of approving the sale, the Agency will require that the housing project be restored to sound physical condition in accordance with the report submitted by the seller under (a) above and the independent review by the Agency. Deferred maintenance must be completed no later than the closing of the sale, unless otherwise agreed by the Agency. Necessary repairs and capital improvements must be completed within a time frame acceptable to the Agency.

(e) As a condition of approving the sale, the Agency will also require payment of debt service arrearage, current unpaid invoices, total operating expenses covering three months (for senior citizen projects) and six months (for family projects), full funding of all reserves and any other obligations of the project.

(f) Upon assignment and assumption of the Agency's mortgage, modifications shall be made to the mortgage clearly specifying the Agency's right to enforce these regulations.

5:80-32.4 Required documents

(a) To assist the Agency in its review of an eligible LD sponsor's request for approval of a housing investment sale, as described in N.J.A.C. 5:80-32.3(a), the seller shall supply the Agency with the following documents, in form and substance satisfactory to the Executive Director:

1. Administrative questionnaires for the buyer;
2. Copies of the buyer's organizational documents;
3. Any Previous Participation Certificates (form 2530) for the buyer;
4. The buyer's certified financial statement;
5. A physical inspection report approved by the Agency;
6. A financial report on project operations approved by the Agency; and
7. Any other documents or other information requested by the Agency that would reasonably assist it in reviewing the proposed housing investment sale.

5:80-32.5 Fee

The eligible LD sponsor seller shall pay a processing fee to the Agency in such amount, as determined by the Agency, as will reimburse the Agency for its administrative cost (that is, Agency staff time and actual expenses incurred) in reviewing and processing the seller's request to engage in a housing investment sale. With its initial request for approval of the sale, the seller shall submit a non-refundable \$5,000 deposit that shall be credited toward the processing fee. The seller will be billed for any balance due at the closing of the sale, and said balance shall be due and payable at that time.

5:80-32.6 Closing

(a) At the closing of any approved housing investment sale, the following documents, in form and substance satisfactory to the Agency, shall be delivered:

1. Legal opinions from the seller's and buyer's attorneys to the effect that the respective entities' participation in the housing investment sale is fully lawful; and
2. Any legal opinion of nationally recognized bond counsel reasonably required by the Agency relating to the proposed housing investment sale or its effect upon any outstanding obligations of the Agency.

(b) At the closing of any approved housing investment sale, the following shall occur:

1. The eligible LD sponsor shall transfer title to the realty and tangible personalty comprising its project, as well as any required project accounts, escrows and reserves, to the buyer;
2. The buyer shall pay to the eligible LD sponsor the purchase price for the project by assuming the project indebtedness of the eligible LD sponsor and paying the balance of the purchase price in cash; and
3. The Agency shall review and approve the following payments to be made from the available cash of the eligible LD sponsor:
 - i. To the eligible LD sponsor, an amount equal to its investment in the project, as determined under the HMFA Law;
 - ii. To the eligible LD sponsor, an amount equal to 50 percent of its maximum additional return;
 - iii. To the MAR revolving account, an amount equal to 50 percent of the maximum additional return of the eligible LD sponsor;
 - iv. To the State Treasurer, the balance of eligible LD sponsor's available cash, as required under the Limited Dividend Law.

APPENDIX

Example of Application of Subchapter Rules

(a) A group of individuals formed an eligible LD sponsor and invested \$1,500,000 in it: \$1,000,000 was invested in the physical assets of the project (that is, its realty and tangible personalty) and was recognized as investment in the project under the HMFA Law; \$500,000 represented promoters' fees and was not recognized as investment in the project under the HMFA Law. The eligible LD sponsor received a non-recourse loan of \$9,000,000 from the HMFA.

(b) If the Agency had recognized the entire \$1,500,000 as investment in the project, which it was not required to do, the eligible LD sponsor would have been entitled to an additional return on its investment of \$40,000 in each year of operation. For 15 years the project generated revenues sufficient to cover this additional \$40,000. The \$600,000 (15 years x \$40,000) aggregate representing this additional return, along with other surpluses, was invested and earned a total of \$200,000 in interest income over the 15 years.

(c) Fifteen years after the formation of the eligible LD sponsor, a qualified housing sponsor proposes to buy the physical assets of the eligible LD sponsor in a housing investment sale. At the time of the sale, the eligible LD sponsor has repaid \$1,800,000 of the HMFA loan and has received the full annual return on investment permitted under the HMFA Law. At the closing of the housing investment sale, the project's residual receipts, as defined in N.J.A.C. 5:80-30.1 were \$2,200,000. The purchase price paid by the buyer to the eligible LD sponsor is \$10,900,000, paid by assuming the \$7,200,000 mortgage loan still outstanding and paying \$3,700,000 cash at closing.

(d) At the closing of the house investment sale, \$200,000 of the purchase price is applied to transaction costs. Thus, the available cash of the eligible LD sponsor is \$5,700,000, computed as follows: \$3,500,000 (the cash portion of the Purchase Price, \$3,700,000, less \$200,000 in transaction costs), plus \$2,200,000 (the residual receipts). (See N.J.A.C. 5:80-32.1, "available cash".)

(e) The maximum additional return is \$4,000,000, computed as follows:

1. \$500,000 cash invested by the owners of the eligible LD sponsor that was not recognized as investment in the project (see N.J.A.C. 5:80-32.1, "maximum additional return" paragraph 1), plus
2. \$600,000 representing cumulative annual return on the \$500,000 described in (e)1 above (see N.J.A.C. 5:80-32.1, "maximum additional return" paragraph 2), plus
3. \$200,000 investment income earned on the \$600,000 described in (e)2 above (see N.J.A.C. 5:80-32.1, "maximum additional return" paragraph 3), plus
4. \$1,800,000 representing amortization of principal on the Agency's mortgage loan (see N.J.A.C. 5:80-32.1, "maximum additional return" paragraph 4), plus

5. \$900,000 in market appreciation of realty and tangible personalty (that is, the purchase price of \$10,900,000 less investment in the project of \$1,000,000 and original mortgage loan of \$9,000,000, as provided in N.J.A.C. 5:80-32.1, "maximum additional return" paragraph 5).

(f) At closing, the following payments are made from the available cash:

1. To the eligible LD sponsor, \$1,000,000, representing its investment in the project, as determined under the HMFA Law (see N.J.A.C. 5:80-32.6(b)3i);
2. To the eligible LD sponsor, \$2,000,000, representing 50 percent of its maximum additional return (see N.J.A.C. 5:80-32.6(b)3ii);
3. To the MAR Revolving Account, \$2,000,000 representing 50 percent of the maximum additional return (see N.J.A.C. 5:80-32.6(b)3iii); and
4. To the State Treasurer, \$700,000, representing the balance of available cash (see N.J.A.C. 5:80-32.6(b)3iv).

SUBCHAPTER 33. LOW INCOME HOUSING TAX
CREDIT QUALIFIED ALLOCATION PLAN

Authority

N.J.S.A. 55:14K-5g.

Source and Effective Date

R.1995 d.281, effective June 5, 1995.
See: 27 N.J.R. 986(a), 27 N.J.R. 2190(a).

5:80-33.1 Introduction

(a) The Low Income Tax Credit ("LITC") Program is one of a variety of resources used to stimulate the development of affordable housing. Like most State and Federal resources, the LITC program is a limited resource with a finite dollar amount allocated to it each year. With the State's affordable housing needs continually growing, the question is often asked of how to best allocate these resources to get the greatest results. The State of New Jersey is making a concerted effort to target resources to key areas in the State, in order to increase the positive impact to those areas.

(b) In keeping with this philosophy, the New Jersey Housing and Mortgage Finance Agency (NJHMFA) in its Tax Credit Allocation Plan has prioritized tax credit allocations to projects that are located in targeted areas. The NJHMFA may consider expanding the targeting strategy to include:

1. Designated Empowerment Zones and Enterprise Communities;

2. Municipalities in which the Office of State Planning has approved a Strategic Revitalization Plan;

3. Neighborhood designated by the Commissioner of the Department of Community Affairs as part of a neighborhood-based strategy.

(c) At the conclusion of the allocation year, NJHMFA will evaluate the viability of any expansion under (b) above and make a determination as to whether they will be included in promulgated amendments to this Plan.

(d) In order to provide for the effective coordination of the New Jersey Low Income Tax Credit Program and the Internal Revenue Code (the "Code"), the rules within this subchapter shall be construed and administered in a manner consistent with the Code and regulations promulgated thereunder.

(e) Compliance with the requirements of the Code is the sole responsibility of the owner of the building for which the credit is allowable. NJHMFA makes no representations to the owner or anyone else as to compliance with the Code, Treasury regulations, or any other laws or regulations governing Low-Income Housing Tax Credits, or as to the financial viability of any project. All applicants should consult their tax accountant, attorney or advisor as to the specific requirements of Section 42 of the Code governing the Federal Low Income Housing Tax Credit Program.

5:80-33.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Adaptive reuse" means the substantial rehabilitation and conversion of any existing non-residential building, (for example, school or factory) to a residential use.

"COAH obligation" means a low/moderate income rental project that is in a Council on Affordable Housing (COAH) certified plan or in a plan that is currently under COAH's jurisdiction as the result of a petition for substantive certification.

"Court-ordered obligation" means a low/moderate income rental project that is part of a judgment of repose, a pending judgment of repose and/or court settlement that is the result of an exclusionary zoning lawsuit.

"Complete application" means an application including the application fee, completed application forms and certifications, and all eligibility requirements.

"De minimis award" means an award of credits from the Reserve in order to fully fund the last of the highest ranking projects in a cycle up to a maximum of \$100,000. An example of a de minimis award follows:

There are 10 projects in the suburban cycle. They are ranked highest to lowest. There are enough credits to fully fund the first five projects. The sixth project needs \$100,000 but there is only \$10,000 left in the cycle. NJHMFA may take \$90,000 from the Reserve and award it to the project. If the last highest ranking project is not able to be fully funded by using the amount left in the cycle plus a de minimis award, the project may not be able to be funded and may have to reapply.

"Family project" means any non-age-restricted project.

"Geographic distribution" means in order to promote equitable distribution of tax credits across the State, NJHMFA takes into consideration geographic distribution when awarding reservations of tax credits. In a tie-breaker situation, credits will be awarded to the project situated in the area that has not yet received low income housing tax credits.

"Minimum rehab project" means any project undertaking rehabilitation, where the construction costs total less than 50 percent of the acquisition cost where construction cost equals the costs of demolition, off-site improvements, residential and other structures, environmental clearances, surety, sales tax, building permits and other costs of construction and acquisition cost equals the costs of land, building acquisition appraisal, relocation and other acquisition costs. Minimum rehab projects are eligible to apply only in the Final Cycle. They will be funded in the third round only if there are no other projects left to fund.

"Qualified nonprofit organization" means, pursuant to Section 42(h)(5)(B) of the Code, an entity that owns an interest in the project (directly or through a partnership) and materially participates (within the meaning of Section 469(h)) in the development and operation of the project throughout the compliance period and is not affiliated with or controlled by a for-profit organization. Section 42(h)(5)(C) defines a qualified nonprofit organization as follows:

1. Such organization is described in paragraph (3) of (4) of Section 501(c) and is exempt from tax under Section 501(a);

2. Such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and

3. One of the exempt purposes of such organization includes the fostering of low-income housing.

Section 42(h)(5)(D) describes how certain subsidiaries meet the definition of a qualified nonprofit organization as follows:

1. In general: For purposes of this paragraph, a qualified non profit organization shall be treated as satisfying the ownership and material participation test of Section 42(h)(5)(B) if any qualified corporation in which such organization holds stock satisfies such test.

2. Qualified corporation: For purposes of paragraph 1 immediately above, the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by one or more qualified nonprofit organizations at all times during the period such corporation is in existence.

"Senior project" means a project dedicated to households whose head, spouse or sole member is 62 years of age or older.

"Social services model" means any project which submits evidence such as an executed agreement between a housing and social service provider or otherwise demonstrates to the satisfaction of NJHMFA that one or more of the following types of services will be provided to improve the quality of life of the residents of the project. The services include, but are not limited to:

1. Hiring a full-time social service coordinator. If a social service coordinator is being provided through a third party, then a signed agreement between the two parties is required, and the coordinator must be dedicated to the tax credit project for at least 20 hours a week;
2. Providing child care services either on site or linked to outside child care centers;
3. Providing health care services either on site or linked with a local health care provider;
4. Providing job training programs on site or linked with a local training center;
5. Providing personal care and/or housekeeping services on site;
6. Providing at least one congregate meal on site;
7. Providing adult day-care services; or
8. Providing transportation services for the residents.

A project cannot be classified as having both a special needs component and a social services model. In a tie-breaker situation where a special needs project is tied with a project offering a social services model, the tie cannot be broken on the social services model tie-breaker. Instead, both projects go to the next rung of the tie-breaker system which is geographic distribution.

"Special needs project" means a project serving populations including individuals and families who are in need of certain types of home and/or community-based supportive services, usually on an ongoing basis, in order to remain capable of independent living in communities. Supportive services range across a wide continuum of care and will vary from person to person depending on their particular physical, psycho-social, and/or mental limitations, and may vary for one person over time. Each special needs tenant does not have to utilize all of the services provided by the project; however, the services must be available. If tenants are not utilizing the services that are available, NJHMFA may call into question whether or not the project is serving a special needs population. In order to be classified as a Special Needs Project, applicants must propose a project which will reserve a minimum of 20 percent of the total affordable units in the project for occupancy by one (or more) of the targeted populations referred to below, and must make available a minimum of three daily services addressing the needs of the identified group, one of which must be a social services coordinator. If a social services coordinator is being provided through a third party, then a signed agreement between the two parties is required, and the coordinator must be dedicated to the tax credit project for at least 20 hours a week. Project sponsors may reserve more than 20 percent of their affordable units for occupancy by one or more of these targeted populations. For certain types of special needs projects, no more than 30 percent of the units should be set aside for persons with special needs in order to avoid saturation or an institution-type atmosphere. In order to be classified as a Special Needs Project, applicants must also demonstrate evidence of appropriate linkages—such as an executed agreement between a housing and social service provider and commitments from applicable State and/or local agencies. In addition, applicants must demonstrate that the market for the targeted population exists in the project's service area and market the units to persons with special needs. In a tie-breaker situation where a special needs project is tied with a project offering a social services model, the tie cannot be broken on the social services model tie-breaker. Instead, both projects go to the the next rung of the tie-breaker system which is geographic distribution. Examples of target populations are:

1. Persons with AIDS/HIV-related illness;
2. Homeless;
3. Mentally ill;
4. Frail elderly;
5. Alcohol/substance abusers;
6. Persons with physical disabilities;
7. Mentally retarded/developmentally disabled;
8. Pregnant/parenting teens; or
9. Victims of domestic violence.

Examples of supportive services include, but are not limited to, the following:

1. Case management;
2. Counseling and crisis intervention;
3. Health care advocacy and linkages;
4. Assistance with activities of daily living and/or instrumental activities of daily living;
5. Recreational activities;
6. Entitlement counseling and advocacy;
7. Employment counseling and training;
8. Support groups;
9. Home-based personal or medical assistance;
10. Skilled nursing;
11. Meals preparation;
12. Housekeeping;
13. Substance abuse and mental health supports; or
14. Child care.

Linkages, Service Commitments and Market Analysis— Applicants who propose a special needs project must also demonstrate evidence of appropriate linkages—such as an executed agreement between a housing and social service provider and commitments from applicable state and/or local agencies. In addition, applicants must demonstrate that the market for the targeted population exists in the project's service area and affirmatively market the units to persons with special needs.

“Targeted city” means any city designated by the Governor's Urban Coordinating Council.

“Targeted neighborhood” means any neighborhood which has been selected for implementation of a specific revitalization plan within a city designated by the Governor's Urban Coordinating Council. If the targeted neighborhoods are not announced at least one month prior to the application deadline, only targeted cities shall apply and the full 20 points awarded.

5:80-33.3 Reservation cycles

(a) Each year there will be up to three cycles and a reserve set-aside. They will be advertised in The Atlantic City Press, The Record, Newark Star Ledger, The Courier News, The Asbury Park Press, The Camden Courier Post, Bridgeton Evening News and The Times. NJHMFA will set the eligibility cut-off dates in each year for receipt of

completed applications. The application filing deadlines and the credits available in each cycle will be announced as early in the year as possible. Reservations will be announced approximately 90 days (or the next business day if the 90th day is a weekend or holiday) after the deadline for the cycle. NJHMFA may adjust the number of cycles or adjust the dates if required by the time of passage of Federal legislation or adoption of IRS rules and regulations or for other compelling circumstances.

(b) For the Urban Cycle, only projects located in municipalities listed on the urban area list (see Appendix Exhibit 1 incorporated here by reference) may apply in this cycle. Fifty-four percent of the State's population credits are available in this cycle. Minimum rehab projects are not eligible to apply in this cycle.

(c) For the Suburban Cycle, all projects not located in municipalities listed on the urban area list may apply in this cycle. Thirty-six percent of the State's population credits are available in this cycle. Minimum rehab projects are not eligible to apply in this cycle.

(d) The Final Cycle will take place only in the event there are unused credits from the Reserve or the Urban and Suburban Cycles or if New Jersey is awarded an allocation from the National Pool. All projects may apply to this cycle. If all credits are not reserved in the Suburban and Urban Cycles, the remaining amount will be made available in this cycle. Any National Pool as well as any remaining credits in the Reserve set-aside will also be made available in this cycle. Minimum rehab projects are eligible to apply in this cycle.

(e) Should NJHMFA receive any returned credits after the Final Cycle awards have been made, NJHMFA will, to the extent possible, try to reallocate them before December 31st. They will be allocated to the next-highest ranking project(s) from the Final Cycle.

(f) Projects that were admitted to a cycle but did not receive a reservation of credits may re-apply in the Final Cycle by simply submitting a Reapplication Certification in which the applicant certifies that there are no changes whatsoever to the previously submitted application or documents any and all changes to the previously submitted application. If there are changes, a reapplication fee is required.

5:80-33.4 Application fees

(a) An application fee of \$1,000 is required with each application. The application fee is nonrefundable and will be credited toward the reservation fee. A nonrefundable reapplication fee of \$100.00 is required only if there are changes to the application.

(b) Projects that applied but did not receive a reservation of credits can reapply in a later cycle or the following year by submitting a reapplication certification and reapplication fee. Projects that are in essence new projects, for example, changes in the project composition, sites or sponsor or developer entities, must submit a new application and application fee.

5:80-33.5 Set-asides

(a) The NJHMFA shall establish a Reserve Set-Aside by setting aside 10 percent of the State's population credits, any returned credits and any carryforward credits, as a reserve for projects that did not receive a full allocation in the previous year because there were not enough credits to meet the demand and for projects that did receive a full allocation but need additional credits due to technical errors, de minimis awards and for projects that need additional credits due to construction costs overruns, etc. The Reserve Set-Aside is not included within the Urban or Suburban Cycle. The dual purpose of the Reserve Set-Aside is intended to address the following.

1. NJHMFA has been experiencing unprecedented demand for the low-income housing tax credit and as a result was able to only partially fund some projects in the prior allocation year. Those projects that did not receive their full eligible allocation based on NJHMFA's credit evaluation are eligible to compete for up to their full allocation in this portion of the Reserve. The developer fee and eligible basis will be frozen at the level of the last carryover certification. Projects such as these must follow the application requirements listed under N.J.A.C. 5:80-33.9. The deadline date for receipt of these applications is the same as the Urban and Suburban Cycles' deadline. These projects will be ranked in accordance with the criteria set forth in the Final Cycle. Awards will be announced at the same time as awards from the Urban and Suburban Cycles and any credits left will be made available under paragraph 2 below. The amount of credits available in this portion of the Reserve is nine percent of the State's population credits.

2. This portion of the Reserve Set-Aside is for hardship requests for projects that have received a full allocation but need additional credits due to technical errors, de minimis awards and for projects that need additional credits due to construction cost overruns, etc. Applicants cannot apply for additional credits from this portion of the reserve until the year in which the project places in service. Any hardship request must be documented to the satisfaction of NJHMFA. There is no application deadline for this portion of the Reserve; however, credits from the Reserve are subject to availability. This portion of the Reserve is funded by carryforward and returned credits and the remaining one percent of the State's population credits. \$100,000 of this portion of the Reserve will be set aside for technical errors, etc. until allocations are ready to be made in the Final Cycle.

(b) The NJHMFA shall establish a Senior Set-Aside by setting aside 20 percent of the credits available in the Urban and Suburban Cycles for senior citizen projects. Senior citizen projects are eligible for credits beyond the set-aside. In each cycle, reservations will first be awarded to the highest scoring senior projects until the senior set-aside has been met. Once the senior set-aside has been fully reserved to senior projects, reservations will be awarded to the highest scoring nonprofit-sponsored projects until the nonprofit set-aside has been fully reserved. Then, reservations will be awarded to the applications with the highest scores. If, because of lack of demand, the senior set-aside is not fully utilized, remaining credits in the senior set-aside will be released into that cycle for use by other projects.

(c) The NJHMFA shall establish a Nonprofit Set-Aside in order to encourage the participation of local and/or State tax-exempt organizations in the tax credit program. Twenty percent of the credits available in the Urban and Suburban Cycles will be set aside for qualified nonprofit organizations. Nonprofits are eligible for credits beyond the set-aside. If, however, there is not enough nonprofit demand, credits remaining in the nonprofit set-aside shall be made available to other projects so long as no more than 90 percent of the total State housing credit ceiling, as per Internal Revenue Code 42(h)(5)(A), is allocated to for-profit sponsored projects. In order to qualify for credits from the nonprofit set-aside and for the nonprofit reservation fee, organizations must certify that they are a qualified nonprofit organization under the meaning of the Code.

(d) Nonprofit senior projects will count toward both set-asides. For example, if a senior project sponsored by a qualified nonprofit organization receives an allocation of tax credits, that project is helping to meet the Statewide goal of awarding 20 percent of the population credits to nonprofits; it is also helping to meet the Statewide goal of awarding 20 percent of the population credits to senior projects.

(e) The following is an example of the estimated breakdown of credits in cycles and set-asides:

Population Credits (estimate)		\$9,900,000	
Less 10 percent Reserve Set-Aside		<u>\$990,000</u>	
Available for Urban & Suburban Cycles		\$8,910,000	
<u>Urban Cycle—\$5,346,000</u>		<u>Suburban Cycle—\$3,564,000</u>	
20 percent Senior		20 percent Senior	
Set-Aside	\$1,069,200	Set-Aside	\$712,800
20 percent Nonprofit		20 percent Nonprofit	
Set-Aside	\$1,069,200	Set-Aside	\$712,800
Other	\$3,207,600	Other	\$2,138,400

5:80-33.6 Application process

(a) Applications will be accepted beginning one month prior to the deadline date. Late and incomplete applications will not be admitted into a cycle. After the application deadline, telephone calls or other verbal communications on behalf of tax credit application from a project's development team, elected representatives, etc., will not be accepted. Written communication altering the application so as to cure a prior incompleteness or ineligibility or increase its competitiveness will not be considered. NJHMFA reserves the right to contact the applicant if the need arises.

(b) Projects must meet all of the following eligibility requirements in order to be admitted into a cycle.

1. The minimum term of the low income occupancy commitment is 30 years: a 15-year compliance period plus the 15-year extended use period required by the Internal Revenue Code. At the time the project is placed in service, the project owner must enter into an "extended low-income housing commitment agreement" as required in Section 42(h)(6) of the Code. To comply with this requirement, NJHMFA will file a Deed of Easement and Restrictive Covenant pursuant to State law.

2. The applicant must select one of the following low-income set asides: 20 percent of the units to be occupied by persons earning 50 percent or less of median income; 40 percent of the units to be occupied by persons earning 50 percent or less of median income; or 40 percent of the units to be occupied by persons earning 50 percent or less of median income (for HOME targeting projects, if applicable).

i. All rents and utility allowances shall be correctly calculated. Applicants choosing to restrict at least 50 percent of the units to households earning 50 percent or less of the area median income in order to score points under the point system established by these rules, shall be bound by such choice for the period of restriction selected as it will be reflected on the Deed of Easement and Restrictive Covenant.

3. The type of housing proposed and all amenities and services shall be described in a narrative format. It must include an explanation of how the services will be paid for as well as the need and demand for the project and its impact upon the neighborhood. Commercial space, if any, must be disclosed.

4. At the time the application is filed, the applicant shall be either the owner or developer of the project and shall demonstrate that it has site control of the property via any one of the following:

- i. Fee simple title;
- ii. Long-term leasehold interest;

iii. Option to purchase or lease, including evidence that options are renewable until at least the start of construction;

iv. Executed land sales contract or other enforceable agreement for acquisition of the property;

v. An executed disposition and development agreement with a public agency. Title ownership is not required for carryover allocations; or

vi. A site being developed pursuant to the NJHMFA's Camden housing initiative, under which the NJHMFA has developed a program to stimulate the construction, rehabilitation and improvement of housing in the city of Camden.

5. All local and environmental approvals shall have been obtained and must be provided. Applicants shall submit a copy of the preliminary or final site plan resolution as well as all other approvals. For substantial rehabilitation projects that are not required by the municipality to obtain site plan approval, a letter from the planning board (or appropriate municipal official) stating that the project is not subject to site plan approval shall be provided. It is the applicant's responsibility to demonstrate that the project complies with all applicable local land use and zoning ordinances and that nothing at the local level interferes with the project obtaining all necessary permits. The Code requires that the chief executive officer of the municipality in which the project is to be located be given the opportunity to comment on the project. NJHMFA will notify the chief executive officer of the municipality and allow him or her a reasonable opportunity to comment on the project. Final environmental approvals shall not be required by the application date for projects being developed pursuant to the NJHMFA's Camden housing initiative, under which the NJHMFA has developed a program to stimulate the construction, rehabilitation and improvement of housing in the City of Camden.

6. All financing information shall be disclosed in the application package. The total of all funding sources (excluding bridge financing) must equal the total project cost. Commitment letters from lending institutions for construction and permanent financing must indicate the interest rate (or the basis on which the interest rate will be set), term of the loan and all conditions. Projects requesting Balanced Housing or State HOME funds from the Department of Community Affairs (DCA) shall submit a letter from DCA evidencing that the application has been received and is complete. DCA will inform NJHMFA of the projects it intends to fund and the subsidy amounts if those projects are sufficiently competitive to receive tax credits. DCA will announce the Balanced Housing and HOME commitments at the same time NJHMFA awards the reservations of tax credits.

i. Commitment letters for grants (that is, Federal Home Loan Bank) should be firm or contain only conditions that are under the control of the sponsor, that is, grant commitments cannot be conditioned on the availability of funds. All grants whether private, Federal, State or local must be deducted from basis (unless the grantee is taking the grant into income and paying income tax on it or the grantee is making a loan to the partnership). For local government grants or loans, for example, CDBG, RCA, a copy of the county's or municipality's resolution approving the funds for the project shall be submitted with the application. For projects receiving HOME funds the applicant shall submit a copy of the participating jurisdiction's resolution approving the funds for the project or a copy of HUD form 7015.15, "Request for Release of Funds Certification" along with a copy of the participating jurisdiction's transmittal letter to HUD.

ii. Applicants of projects over 25 units representing that they will be contributing equity beyond that generated by the tax credit shall disclose the amount, the source, for example, developer fee, savings account, pledged assets, and all terms. Applicants coming out-of-pocket to fill the equity gap shall provide a letter from a certified public accountant who certifies that the applicant has the amount of cash that is needed to fill the gap. Applicants are discouraged from representing in their application that they will be using their own financial resources, when in fact, they anticipate applying for other Federal, State or local subsidies.

iii. Applicants do not need to have a syndicator at the time of application. For projects that do not have an investor at the time of application, NJHMFA shall assume a net pricing of \$0.50 per tax credit dollar. However, if the applicant wants the project underwritten at a higher price, then the applicant shall include a commitment letter from an investor evidencing the net pricing and total anticipated net proceeds.

iv. For projects relying solely on equity funding from syndicators, that is, no mortgage, grants, etc., applicants shall submit evidence that the syndication equity shown in the application is attainable. Acceptable evidence is a fully executed commitment letter from the syndicator, indicating the actual pricing and the total anticipated net proceeds (which should equal the total equity funding shown in the application). The actual net price shall be used in NJHMFA's initial credit evaluation. This evaluation shall assume a mortgage will be obtained. In determining the maximum mortgage supportable by the rent roll, NJHMFA will assume the operating costs of the 15-year proforma and the general NJHMFA mortgage underwriting guidelines in N.J.A.C. 5:80-33.17.

7. In accordance with the Code, NJHMFA will examine the reasonableness of the operational costs of the project. Applicants shall demonstrate that their project is financially feasible and viable as a qualified low-income housing project throughout the tax credit compliance period. Applicants shall submit a 15-year cash flow pro forma. Applicants with less than 15-year fixed rate permanent financing shall show how the project will remain feasible throughout the compliance period when, for example, the rate adjusts or a balloon payment comes due. A project that applied for balanced housing funds should be using the same rent structure in the tax credit application as in the application for balanced housing.

8. Resumes of the development team (to the extent they have been selected at the time of application for tax credits) shall be submitted. This includes the project owner (general partner and limited partner or syndicator if selected), developer, architect, consultant, general contractor, and management company. All team members shall disclose prior or current defaults or foreclosures or, if none, provide a statement that affirms no involvement in such actions. Misrepresentation of any information about the experience, financial capacity or defaults or foreclosures of any team member will be grounds for denial or loss of the credits and may affect the person's future participation in the program.

9. Projects over 25 units must complete the identity of interest disclosure certification as set forth in Appendix, Exhibit 2, incorporated herein by reference.

10. Applicants requesting acquisition credits shall include an attorney opinion regarding each building's eligibility for acquisition credits unless the deed(s) conveying title to the previous owner clearly shows that the building has not changed ownership in the past 10 years. As long as the sale is an arms-length transaction, the sale price listed on the deed or purchase contract will be used in determining acquisition basis. If the sale is not an arms-length transaction, the applicant shall submit an appraisal not older than six months. The acquisition basis will be limited to the lesser of the purchase price or appraised value.

11. In order to qualify for credits from the nonprofit set-aside and for the nonprofit reservation fee, applicants shall certify that they are a qualified nonprofit organization under the meaning of the Code.

12. For projects over 25 units that are claiming a prior owner's expenditures in basis, a Certified Public Accountant shall certify the amount of the eligible costs incurred by a prior owner pursuant to the Code at 42(d)(7)(B)(i) which permits a subsequent owner to claim a credit on a qualified low income building, provided the credit was allowed to the prior owner. The CPA must certify that the amount of such costs shown in the application has been spent and is accurately reflected in eligible basis.

13. All projects funded by the United States Department of Rural Economic and Community Development (formerly known as Farmer's Home Administration) must provide a letter from the State Director approving the loan and stating that the funds have been obligated.

14. All applicants anticipating receiving Section 8 Project Based Rental Assistance or any other type of rental subsidy from a government or private source shall submit with the tax credit application evidence of receipt of such assistance. Evidence of Section 8 shall include, at a minimum, a letter from the Public Housing Authority (PHA) firmly approving the project for Section 8 Project Based Assistance subject to the completion of the subsidy layering review. For projects involved in the A.F.L.-C.I.O. Pension Fund Program, a preliminary commitment from the A.F.L.-C.I.O. shall suffice. For other types of rental assistance, evidence shall include a fully executed rental assistance contract that specifies the source and term of the subsidy, as well as any timing concerns. Projects underwritten at fair market rents (FMRs) must include the Section 8 evidence described above in this paragraph; however, applicants that underwrite their project at the tax credit rents and can show their project is feasible at the tax credit rents do not have to submit evidence of Section 8 assistance.

15. Projects occupied by special needs populations are particularly hard to develop because of the risk typically associated with them. This risk emanates largely from their reliance on year-to-year operating subsidies from such sources as state and local departments of human services. Consequently, funding levels may vary depending on the governmental budget. Because this Plan awards points to these types of projects, applicants shall support their claim to serve special needs populations by providing, at a minimum, operating subsidy sources and their contact persons and the social service providers' track records (evidencing fulfillment of governmental contracts, etc.) and references. Firm operating subsidy commitments for the 30-year extended use period are not required. The applicant or general partner does not have to be the social service provider. However, the applicant shall also include with the application a copy of the executed contract or letter of agreement signed by both the owner and the social service provider that specifies the scope and frequency of the support services to be provided, the number of units to be serviced and the length of time (term) of the services contract. A special needs marketing analysis and plan shall be submitted.

16. NJHMFA encourages all owners/developers to affirmatively market their projects. For projects over 25 units, applicants shall submit an Affirmative Fair Housing Marketing Plan, which, in short, documents how the project will be marketed to those people who are least likely to apply. For instance, if the proposed development is located in an area predominantly occupied by Caucasians, outreach should be directed to non-Caucasians. Conversely, if the population is predominantly

African-American, outreach should be directed to non-African-American groups. At the time the units are placed in service, the developer and rental agent shall certify that the project was affirmatively marketed.

5:80-33.7 Review process

(a) After successfully fulfilling the eligibility requirements at N.J.A.C. 5:80-33.6(b), applications will be admitted into the cycle. NJHMFA will undertake an initial credit evaluation (or needs analysis) by reviewing the application and the cost and basis breakdown for compliance with cost benchmarks and underwriting standards (see N.J.A.C. 5:80-33.17). NJHMFA will perform the first of the needs evaluations pursuant to the Code's mandate to housing credit agencies to allocate credits to a project in an amount not to exceed that necessary for its financial feasibility and its viability as a qualified low-income housing project throughout the compliance period. NJHMFA also performs these needs evaluations at the time the allocation is made and at the time the project is placed in service.

(b) Applications will receive points based on the point system for the particular cycle in which they compete. In the event of a tie score, projects will be ranked according to the tie-breaker system for the particular cycle in which they are competing. Set-asides will be filled within each cycle by first making reservations to the highest scoring senior projects until the senior set-aside is met and next making reservations to the highest scoring nonprofit-sponsored projects until the nonprofit set-aside is met. Then, reservations will be awarded to the applications with the highest scores and to the applications that win the tie-breakers.

(c) The point system for the Urban Cycle shall be as follows:

1. Family projects—20 points.
2. Targeted cities and targeted neighborhoods—20 points maximum broken down as follows: targeted city—10 points; or targeted neighborhood—an additional 10 points if project is located in a targeted neighborhood within the targeted city.
 - i. Targeted cities and targeted neighborhoods are designed to target resources to key areas in the State, in order to increase the positive impact to those areas. If the targeted neighborhoods are not announced at least one month prior to the application deadline, only targeted city shall apply and the full 20 points shall be awarded.
3. Special needs projects—10 points:
 - i. This category is designed to encourage development and preservation of housing for special needs populations.
4. Increasing the low income set-aside—20 points:

i. This category is designed to encourage projects with set-asides exceeding the minimum required by Code, namely the 40-60 and 20-50 set-asides, by setting aside at least 50 percent of the units at 50 percent of the area median income. The project's set-aside selected in the application will be reflected in the deed restriction.

5. Period of restriction—20 points:

i. This category is designed to encourage projects to remain low income beyond the 30 years required. Projects that extend the extended use period by five years or more will receive the 20 points. The period of restriction stated in the application will be the number of years that the property will be deed restricted.

6. Substantial rehabilitation/adaptive reuse—10 points:

i. This category is designed to encourage projects undertaking substantial rehabilitation and adaptive reuse.

7. Minority and women business enterprises—10 points:

i. This category is designed to encourage the utilization of certified minority business enterprises (MBE) and women business enterprises (WBE) as subcontractors and on the development team. MBEs and WBEs are certified by the New Jersey Department of Commerce and Economic Development. Developers who are committed to using MBEs and WBEs should submit a MBE/WBE Certification. This states that 15 percent of the construction cost will be let to MBEs and WBEs in the development of the project. MBEs and WBEs can be a part of the development team as well as subcontractors. As part of the placed in service certification, the developer and accountant must certify that at least 15 percent of the construction cost was expended on MBEs/WBEs. If the project did not utilize 15 percent MBE/WBE, and a MBE/WBE Certification was submitted, NJHMFA shall recapture the allocation.

8. Existing HUD-held or HUD-insured projects undergoing substantial rehab—10 points:

i. This category is designed to enable substantial rehabilitation of projects that are on HUD's Troubled Project list. Applicants shall show that they have exhausted all other HUD resources.

(d) In the event of a tie score under the point system for the Urban cycle, reservations will be made in the following priority order:

1. Targeted Cities—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee; and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

2. Family Projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee; and if still a tie:

iv. Fourth to the project utilizing public housing waiting lists.

3. Senior Projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee; and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

(e) The point system for Suburban Cycle shall be as follows:

1. Family projects which:

i. Meet a COAH or Court-ordered fair share obligation—20 points; or

ii. Do not meet a COAH or Court-ordered fair share obligation—10 points.

2. Senior projects that help a municipality meet a COAH or Court-ordered fair share obligation—10 points.

3. Special needs projects—10 points:

i. This category is designed to encourage development and preservation of housing for special needs populations.

4. Increasing the low income set-aside—20 points:

i. This category is designed to encourage projects with set-asides exceeding the minimum required by Code, namely, the 40-60 and 20-50 set-asides, by setting aside at least 50 percent of the units at 50 percent of the area median income. The project's set-aside selected in the application will be reflected in the deed restriction.

5. Period of restriction—20 points:

i. This category is designed to encourage projects to remain low income beyond the 30 years required. Projects that extend the extended use period by five years or more will receive the 20 points. The period of restriction stated in the application will be the number of years that the property will be deed restricted.

6. Substantial rehabilitation/adaptive reuse—10 points:

i. This category is designed to encourage projects undertaking substantial rehabilitation and adaptive reuse.

7. Minority and women business enterprises—10 points:

i. This category is designed to encourage the utilization of certified minority business enterprises (MBE) and women business enterprises (WBE) as subcontractors and on the development team. MBEs and WBEs are certified by the New Jersey Department of Commerce and Economic Development. Developers who are committed to using MBEs and WBEs should submit a MBE/WBE Certification. This states that 15 percent of the construction cost will be let to MBEs and WBEs in the development of the project. MBEs and WBEs can be a part of the development team as well as subcontractors. As part of the placed in service certification, the developer and accountant must certify that at least 15 percent of the construction cost was expended on MBEs/WBEs. If the project did not utilize 15 percent MBE/WBE, and a MBE/WBE Certification was submitted, NJHMFA shall recapture the allocation.

8. Existing HUD-held or HUD-insured projects undergoing substantial rehab—10 points:

i. This category is designed to enable substantial rehabilitation of projects that are on HUD's Troubled Project list. Applicants must show that they have exhausted all other HUD resources.

(f) In the event of a tie score under the point system for the Suburban Cycle, reservations will be made in the following priority order:

1. COAH Obligation—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee; and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

2. Family Projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee; and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

3. Senior Projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee; and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

(g) The point system for Final Cycle shall be as follows:

1. Family projects located in urban areas—20 points:

i. This category is designed to encourage family projects that are located in urban areas.

2. Suburban projects meeting a COAH obligation: family projects—20 points; and senior projects—10 points.

i. This category is designed to encourage projects that are helping a suburban municipality meet a COAH or court-ordered fair share obligation.

3. Targeted cities and targeted neighborhoods: This category is designed to target resources to key areas in the State, in order to increase the positive impact to those areas: targeted city—10 points; and targeted neighborhood—an additional 10 points if project is located in a targeted neighborhood within the targeted city.

i. Targeted cities and targeted neighborhoods are designed to target resources to key areas in the State, in order to increase the positive impact to those areas. If the targeted neighborhoods are not announced at least one month prior to the application deadline, only targeted city shall apply and the full 20 points shall be awarded.

4. Special needs projects—10 points:

i. This category is designed to encourage development and preservation of housing for special needs populations.

5. Increasing the low income set-aside—20 points:

i. This category is designed to encourage projects with set-asides exceeding the minimum required by Code, namely, the 40-60 and 20-50 set-asides, by setting aside at least 50 percent of the units at 50 percent of the area median income. The project's set-asides selected in the application will be reflected in the deed restriction.

6. Period of restriction—20 points:

i. This category is designed to encourage projects to remain low income beyond the 30 years required. Projects that extend the extended use period by five years or more will receive the 20 points. The period of restriction stated in the application will be the number of years that the property will be deed restricted.

7. Substantial rehabilitation/adaptive reuse—10 points:

i. This category is designed to encourage projects undertaking substantial rehabilitation and adaptive reuse.

8. Minority and women business enterprises—10 points:

i. This category is designed to encourage the utilization of certified minority business enterprises (MBE) and women business enterprises (WBE) as subcontractors and on the development team. MBEs and WBEs are certified by the New Jersey Department of Commerce and Economic Development. Developers who are committed to using MBEs and WBEs should submit a MBE/WBE Certification. This states that 15 percent of the construction cost will be let to MBEs and WBEs in the development of the project. MBEs and WBEs can be a part of the development team as well as subcontractors. As part of the placed in service certification, the developer and accountant must certify that at least 15 percent of the construction cost was expended on MBEs/WBEs. If the project did not utilize 15 percent MBE/WBE, and a MBE/WBE Certification was submitted, NJHMFA shall recapture the allocation.

9. Existing HUD-held or HUD-insured projects undergoing substantial rehabilitation—10 points:

i. This category is designed to enable substantial rehabilitation of projects that are on HUD's Troubled Project list. Applicants shall show that they have exhausted all other HUD resources.

(h) In the event of a tie score under the point system for the Final cycle, reservations will be made in the following priority order:

1. Targeted cities—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee, and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

2. COAH obligation—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee, and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

3. Urban family projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee, and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

4. Suburban family projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee, and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

5. Urban senior projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee, and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

6. Suburban senior projects—if still a tie:

i. First, to projects offering a social services model; if still a tie:

ii. Second, on the basis of geographic distribution; if still a tie:

iii. Third, to the project with the most percentage points below the maximum developer fee; and if still a tie:

iv. Fourth, to the project utilizing public housing waiting lists.

5:80-33.8 Reservation process

(a) On the basis of the point and tiebreaker systems, staff will make reservation award recommendations to the Tax Credit Committee. The Tax Credit Committee will consist of the Commissioner of the Department of Community Affairs, or his or her designee, the Executive Director of NJHMFA and three members of the NJHMFA executive staff. The Committee will review the rankings and tiebreaker decisions as well as requests for reservations from the Reserve Set-Aside. Committee decisions are final. All applicants will be notified in writing whether their projects received a reservation or not and the basis for the decision. A reservation commitment letter will be mailed to all reservation recipients. Recipients have 30 days from the date of the reservation letter to pay the reservation fee. A reservation is not complete until the reservation fee is paid. The Reservation Fee Schedule is as follows:

1. For-profit-sponsored Projects: One percent of the allocation amount over the 10-year credit period.

2. Nonprofit-sponsored Projects: One-half of one percent of the allocation amount over the 10-year credit period.

5:80-33.9 Requests for additional credits

(a) Should additional credits be awarded to a project, a reservation fee for the additional credit amount must be provided. All projects seeking additional credits shall have the developer fee that is shown in basis "frozen" at the amount shown on the most recent Sponsor Certification.

(b) Applicants seeking an allocation of additional credits are divided into three categories:

1. Projects from the previous calendar year. These projects shall apply to the Reserve set-aside. These are projects that received allocations in the previous calendar year that, because demand for credits exceeded the supply, were not allocated the full credit amount supportable by the project's eligible basis. Eligible basis cannot exceed that shown on their previous Carryover Certification. Applicants must submit a new application and application fee by the Urban/Suburban Cycle deadline date. Projects will be scored and ranked according to the Final Cycle's point system and tie-breaker system.

2. Hardship Requests of \$100,000 or less—Apply to the Reserve Set-Aside. Only hardship requests for additional tax credits of \$100,000 or less are eligible to apply for credits from the Reserve Set-Aside. There are no application deadlines to apply to the Reserve. NJHMFA will award additional credits out of the Reserve Set-Aside on a first-come-first-served basis subject to NJHMFA's evaluation of the request and availability of credits. The developer fee shown in eligible basis cannot exceed that shown on the previous Sponsor Certification. Applicants shall submit all of the following before NJHMFA will consider the request:

i. Reapplication fee. The reapplication fee is not required when a project reapplies in the Final Cycle after failing to secure credits in the Urban or Suburban Cycle and only then if there are no changes to the application. In applying for a hardship request for additional credits, it is a given that changes have occurred since the initial application;

ii. Reapplication Certification;

iii. Explanation why additional credits are being sought plus supporting documentation;

iv. Letter from the investor (if known) which addresses the eligibility and specific need for the additional credits. If the applicant is still incurring costs and is using a projection of costs and basis in his or her application for additional credits, the investor must verify the projection; and

v. Release of the previously reserved credits effective upon the NJHMFA approval of an increased reservation. This is required only for projects that seek an increase in the reservation amount that they received that same year, for example, received reservation in urban cycle and applied to Reserve later in year for an increase in the reservation.

3. Hardship Requests of over \$100,000—Apply during a cycle. Hardship requests for additional credits exceeding \$100,000 will be handled in a scheduled cycle. The developer fee shown in eligible basis cannot exceed that shown on the previous Sponsor Certification. Applicants shall complete an application and the following in order to be deemed a complete application:

i. Reapplication fee. The reapplication fee is not required when a project reapplies in the final cycle after failing to secure credits in the urban or suburban cycle and only then if there are no changes to the application. In applying for a hardship request for additional credits, it is a given that changes have occurred since the initial application;

ii. Reapplication Certification;

iii. Explanation why additional credits are being sought plus supporting documentation;

iv. Sponsor Certification with an audited breakdown of costs and basis. An independent C.P.A. shall have audited the project and certified the Breakdown of Costs and Basis (which includes disclosure of all funding sources and amounts). For projects still incurring eligible costs, for example, security system, landscaping, NJHMFA will consider awarding additional credits based on the audited Breakdown of Costs and Basis incurred to date and the applicant's projection of costs and basis incurred through the end of the first year of the credit period;

v. Letter from the investor (if known) which addresses the eligibility and specific need for the additional credits. (If the applicant is still incurring costs and is using a projection of costs and basis in his or her application for additional credits, the investor must verify the projection.); and

vi. Release of the previously reserved credits effective upon the NJHMFA approval of an increased reservation. Required only for projects that seek an increase in the reservation amount that they received that same year, for example, received reservation in urban cycle and applied in final cycle for an increase in the reservation.

5:80-33.10 Binding commitments

There are no binding commitments from the tax credit authority of future years allowable under this Qualified Allocation Plan.

5:80-33.11 Returning credits

(a) Projects unable to utilize their allocation should return their allocation to the NJHMFA as soon as possible via letter. NJHMFA will send a letter acknowledging receipt of the return. Returned credits are deposited into the Reserve.

(b) As an incentive to turn in unused credits early, projects that return credits by November 15 will have their previously paid reservation fee credited toward their next reservation fee. Projects returning credits after November 15 that receive a reservation the next year will have to pay a new reservation fee.

5:80-33.12 Credit evaluation (needs analysis)

(a) In accordance with Section 42(m)(2), NJHMFA evaluates the need for the tax credit at the application stage, at carryover, if applicable, and before completing the IRS Form 8609, that is, when the building is placed in service. During each evaluation, if the amount of the tax credit request is not needed for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the tax credit compliance period, the amount of the tax credit will be reduced to the needed amount. The determination of whether the amount requested is needed for financial feasibility and continued viability of the project will include an examination as to whether there have been increases or decreases in project costs, other funding sources or rental subsidies which would result in a higher allocation than needed. For each evaluation, a Sponsor Certification in the format supplied in the application must be submitted. On a case-by-case basis, NJHMFA may extend its filing deadline if the sponsor can show good cause.

(b) At carryover, the Carryover Sponsor Certification form must include an independent C.P.A. certification on the Breakdown of Costs and Basis page that the 10 percent test has been met; that all sources and uses shown are accurate; and that the costs shown in basis are allowable under the Code. The filing deadline is November 15.

(c) As soon as possible after the building has been placed in service, the owner must submit a Placed in Service Sponsor Certification showing all sources (including net syndication proceeds), uses and basis as well as the pricing from the limited partner investor. The developer fee shown in eligible basis cannot exceed that shown on the Reservation or Carryover Certification. The filing deadline is November 15.

(d) In performing the final evaluation of the project's need for the tax credits, NJHMFA will use the actual net pricing achieved with the investor. Any substantive changes to the project's financing plan or costs must be explained in detail and may cause the project to be reconsidered by the NJHMFA.

(e) For projects over 25 units, an independent C.P.A. must audit the project and certify to the costs and basis on Attachment A of the Placed in Service Sponsor Certification set forth in Appendix Exhibit 3, incorporated herein by reference. The C.P.A. must also verify the actual pricing achieved with the investor. The developer fee shown in eligible basis cannot exceed that shown on the Reservation or Carryover Certification set forth in Appendix Exhibit 3. To make sure that the placed in service paperwork is submitted to NJHMFA by the November 15th deadline, sponsors must ensure that the cost certification process begins immediately upon construction completion. In fact, if a project is already placed in service the same year in which it receives a reservation, the cost certification process should begin before construction completion in order to avoid jeopardizing the reservation. For projects still incurring eligible costs, NJHMFA, when performing its placed in service needs analysis, will consider the owner's reasonable projection of costs and basis incurred through the end of the first year of the credit period in addition to the audited Breakdown of Costs and Basis.

(f) The Code requires that NJHMFA reduce the credit amount based upon need; however, this does not mean that NJHMFA will jeopardize the long-term financial feasibility and viability of the project by "arbitrarily" taking back credits. For example, if the equity market improved so that projects were able to get better pricing from investors, NJHMFA will not necessarily reduce the credit on those projects that use the excess credits to cover cost overruns, provide betterments in the project such as upgrading the security system, landscaping, provision of appliances such as washers and the like. NJHMFA will not allow these additional funds to be used to increase the developer fee eligible basis amount over that shown on the previous carryover.

5:80-33.13 Extended use agreement

Section 42(h)(6) of the Internal Revenue Code requires the project owner to enter into an extended low-income housing commitment agreement that adds an additional 15 year low-income occupancy requirement to the initial 15 year compliance period. It must be recorded in order to claim the tax credits when filing Federal tax returns. Owners shall complete the NJHMFA's Deed of Easement and Restrictive Covenant. Upon receipt of a complete and fully executed agreement, NJHMFA will file the restrictive covenant pursuant to State law.

5:80-33.14 Obtaining the 8609

Upon completion of the final needs evaluation, filing of the extended use agreement and payment of the monitoring fee, the NJHMFA will complete Part I of the IRS Form 8609 and will forward a copy, as filed with the IRS, to the project owner. An 8609 is issued for each building in the project. (Owners should be sure to make copies of the signed IRS Form 8609 as a copy must be filed each year with Federal tax returns.)

5:80-33.15 Additional documentation

NJHMFA reserves the right to ask for any documentation necessary throughout the application, reservation, carryover and placed in service processes. NJHMFA will also require all syndication documents.

5:80-33.16 Compliance monitoring

(a) Owners/agents are required to keep records for each qualified low income building in the project which will show for each year of the compliance period the following information:

1. The total number of residential rental units in the building, including the number of bedrooms and the size in square feet of each residential rental unit;
2. The percentage of residential rental units in the building that are low income;
3. The rent charged on each residential rental unit in the building, including any utility allowances;
4. The number of occupants in each low income unit, but only if rent is determined by the number of occupants in each unit under Section 42(g)(2) (as in effect before the Revenue Reconciliation Act of 1989);
5. The low income unit vacancies in the building and information that shows when and to whom the next available units were rented;
6. The annual income certification of each low income tenant per unit. For an exception to this requirement, see Section 42(g)(8)(B) which provides a special rule for a 100 percent low-income building;
7. Documentation to support each low income tenant's income certification, that is, a copy of the tenant's Federal income tax return, W-2 form or income verification from third parties such as employers or agencies paying unemployment compensation. Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937, not in accordance with the determination of gross income for Federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under Section 42(g). For an exception to this requirement, see Section 42(g)(8)(B) which provides a special rule for a 100 percent low-income building;
8. The eligible basis and qualified basis of the building at the end of the first year of the credit period; and
9. The character and use of the non-residential portion of the building included in the building's eligible basis under Section 42(d), that is, tenant facilities that are available on a comparable basis to all tenants and for

which no separate fee is charged for use of the facilities, or facilities reasonably required by the project.

(b) Owners/agents are required to retain the records described above for at least six years after the due date (with extensions) for filing the Federal income tax return for that year. The records for the first year of the credit period, however, must be retained for the entire compliance period plus six years beyond the due date (with extensions) for filing the Federal income tax return for the last year of the compliance period of the building (21 years total). Therefore, records for the first year of the compliance period must be retained for 21 years. Records for each year thereafter must be retained for six years after filing the Federal income tax return for that particular year.

(c) The owner/agent of a low income housing project shall certify, under penalty of perjury, annually to the Agency for each year of the compliance period that for the preceding 12 month period:

1. The project met the requirements of the 20-50 test under Section 42(g)(1)(A) or the 40-60 test under Section 41(g)(1)(B) or the 40-50 test under Section 42(i)(2)(E)(i); whichever minimum set aside test was applicable to the project; and if applicable to the project, the 15-40 test under Sections 42(g)(4) and 142(d)(4)(B) for "deep rent skewed" projects;

2. There was no change in the applicable fraction of any building in the project (as defined by Section 42(c)(1)(B)), or that there was a change and a description of the change;

3. The Owner received an annual income certification on each low income tenant, and documentation to support that certification; or in the case of a tenant receiving Section 8 Housing Assistance Payments, the statement from a public housing authority declaring that the tenant's income does not exceed the applicable limit under Section 42(g). For an exception to this requirement, see Section 42(g)(8)(B) which provides a special rule for a 100 percent low-income building;

4. Each low income unit in the project was rent restricted under Section 42(g)(2);

5. All units in the project were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42(i)(3)(B)(iii));

6. Each building in the project was suitable for occupancy, taking into account local health, safety and building codes;

7. There was no change in the eligible basis of any building in the project, or if there was a change, the nature of the change, (that is, a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge);

8. All tenant facilities included in the eligible basis under Section 42(d) of any building in the project such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;

9. If a low income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;

10. If the income of a tenant of a low income unit who has previously been verified, increases to above 140 percent of the applicable limit allowed in Section 42(g)(2)(D)(ii), that unit may continue to be counted as a low income unit as long as the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income; and

11. An extended low income housing commitment as described in Section 42(h)(6) was in effect for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989.

(d) The Agency requires the owners of all low income housing projects to submit annually to the Agency for review the Annual Project Certification and the Occupancy Status Report which requires information on tenant income and rent for each low income unit. In addition, throughout the year, owners of at least 20 percent of all tax credit projects will be required to submit to the Agency for compliance review the following information for a minimum of 20 percent of all low income units (units will be identified by the Agency):

1. A copy of the annual income certification for the household;

2. The documentation the owner has received to support the certification; and

3. The rent record.

(e) The Agency will select which projects will undergo Agency review and give owners reasonable notice that their project has been chosen as well as identify which documents will need to be submitted. Reviews may occur more frequently than on a 12 month basis, provided that all months within each 12 month period are subject to certification. NJHMFA charges a fee for these services in the amount of \$100.00/unit per year for the 15-year compliance period or a one-time up-front fee of \$750.00 per unit.

(f) The Agency reserves the right to perform an on-site inspection of any low-income housing project at least through the end of the compliance period and have access to all books and records which would document compliance.

(g) Upon determination by the Agency of noncompliance with Section 42 of the Internal Revenue Code or other relevant rules and regulations, the Agency will give prompt notice to the owner of the violation. The owner will then be given sufficient notice to correct the violation. The Agency is required to notify the IRS, within 45 days after the end of the correction period, of the noncompliance and whether the owner has or has not corrected the violation.

5:80-33.17 Underwriting standards

(a) No project will be allocated more than \$2,000,000 in credits in any one calendar year.

(b) The amount of developer fee allowed in eligible basis is limited to 15 percent of total development cost excluding land, working capital, marketing expenses, escrows, operating deficit reserves, costs associated with syndication and step-in-the-shoes costs exceeding the acquisition price.

1. However, a developer fee of up to 20 percent (of total development cost excluding land, working capital, marketing expenses, escrows, operating deficit reserves, costs associated with syndication and step-in-the-shoes costs exceeding the acquisition price) is allowed for the following types of housing:

- i. Scattered site single-family or duplex housing;
- ii. Projects of 25 units or less; and
- iii. Housing for special needs projects.

2. Professional fees not included in the developer fee are the fees for the architect, engineer, lawyer, accountant, surveyor, appraiser, professional planner, historical consultant and environmental consultant. All other consultant fees shall be included in the developer fee and are not allowed to be shown as separate line items on the tax credit application.

3. The developer fee contained in the application will be the maximum fee recognized by the Agency at the time of cost certification. During the scoring and ranking process, if there is a tie score, one of the tie-breaker criteria is a lower developer fee. However, the developer fee should not go below a "floor" of eight percent.

(c) For projects over 25 units in size, where there is an identity of interest between the developer and contractor, applicants are limited in the amount of developer fees and contractor profit allowed in basis. The combined developer fee/general contractor profit may not exceed 18 percent of total cost minus land, working capital, marketing, escrows, operating deficit reserves, costs associated with syndication and step-in-the-shoes costs exceeding the acquisition price.

1. An identity of interest exists between the owner (or developer) and the general contractor if any of the following conditions exist:

- i. When there is any financial interest between the developer and the general contractor;

ii. When one or more of the officers, directors, stockholders or partners of the developer is also an officer, director, stockholder or partner of the general contractor; or

iii. When any officer, director or stockholder of the developer has any interest whatsoever in the general contractor.

(d) The credit amount is determined by multiplying the qualified basis by the applicable percentage rate. It is the intention of this Plan to use nine percent as the applicable percentage rate for new construction and rehabilitation and four percent as the rate for acquisition and federally funded projects. NJHMFA reserves the right, as permitted by the tax credit regulations, to use an applicable rate below the maximum nine percent and four percent and to issue less than the maximum credit allocation otherwise supportable by the project's eligible basis. The applicable Federal rate of the month in which the building is placed in service or applicable Federal rate of the lock-in agreement will still appear on the building's 8609; however, the credit amount cannot exceed the amount NJHMFA allocated to the project. The issuance of tax credits or the determination of any allocation amount in no way represents or purports to warrant the feasibility or viability of the project by the NJHMFA.

(e) Financing arrangements will be evaluated to ensure that projects are not structured to artificially increase basis. Examples:

1. Drawing down entire bridge or secondary loans at construction closing instead of using such financing on an as needed basis.

2. Including accrued construction period interest from soft second loans in basis even though payment of the interest is deferred indefinitely as long as the building remains low income or until sale.

3. Assuming an interest rate far in excess of the market. (Secondary or bridge financing between corporate affiliates should not exceed prime plus two points). The excess interest charges in such cases will not be considered in eligible basis.

(f) While the tax law does not require allocating agencies to place restrictions on the development cost of any project, it does require them to consider the reasonableness of the developmental and operational costs of the project. The NJHMFA will examine building construction and land costs in comparison to the certified cost data on existing tax credit projects and other non-luxury multifamily housing in the same geographic areas. Consideration will be given to "high costs" projects provided that the costs are justifiable and reasonable under the circumstances and can be attributed to unique project characteristics (such as location in difficult-to-develop area, limited commercial space, or tenant services or common areas essential to the character of

the project) which are consistent with the housing needs and priorities of the allocation plan.

(g) The amount of contingency in eligible basis cannot exceed 10 percent of the total depreciable basis.

(h) Intermediary costs include, but are not limited to, developer fees (which include organizational costs and loan consultant fees), legal, planning, accounting, architectural and engineering fees, syndication costs and fees charged by negotiating agents (for example, realtors, etc.). They do not include those costs properly allocated to and payable by the syndicator (such as SEC registration and sales commissions). Pursuant to Internal Revenue Code 42(m)(2)(B)(iii), NJHMFA shall consider the percentage of the housing credit dollar amount used for project cost other than the cost of intermediaries but the intermediary cost standard shall not be applied so as to impede the development of projects in hard-to-develop areas.

Appendix

EXHIBIT 1

LIST OF URBAN AREAS FOR LOW-INCOME HOUSING TAX CREDITS

Asbury Park City	Kearny Town
Bayonne City	Lakewood Township
Belleville Township	Lindenwold Borough
Bloomfield Township	Lodi Borough
Bridgeton City	Long Branch City
Camden City	Millville City
Carteret Borough	Monroe Township (Gloucester)
East Orange City	Mount Holly Township
Elizabeth City	Neptune Township
Garfield City	New Brunswick City
Glassboro Borough	Newark City
Gloucester City	North Bergen Township
Gloucester Township	Old Bridge Township
Hillside Township	Orange City Township
Hoboken City	Passaic City
Irvington Township	Paterson City
Jersey City	Paulsboro Borough
Keansburg Borough	Pemberton Township
	Penns Grove Borough
	Pennsauken Township
	Perth Amboy City
	Phillipsburg Town
	Plainfield City
	Pleasantville City
	Rahway City
	Roselle Borough
	Salem City
	Trenton City
	Union City
	Vineland City
	West New York Town

- Willingboro Township
- Winslow Township
- Woodbridge Township
- Woodbury City

EXHIBIT 2

IDENTITY OF INTEREST CERTIFICATION

- Application
- Placed in Service

An identity of interest exists between developer and general contractor, if any of the following conditions exist:

1. When there is any financial interest between the developer and the general contractor;
2. When one or more of the officers, directors, stockholders or partners of the developer is also an officer, director, stockholder or partner of the general contractor;
3. When any officer, director or stockholder of the developer has any interest whatsoever in the general contractor;
4. When the general contractor advances any funds to the developer.

The undersigned, as duly authorized representative of _____, the developer and/or applicant for an allocation by the New Jersey Housing and Mortgage Finance Agency ("Agency") of Low Income Housing Tax Credit pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, for the project known as _____

certifies as follows:

- There is no Identity of Interest as described above between developer and the general contractor.
- There is an Identity of Interest as described above between developer and the general contractor.

Any applicant or recipient of tax credits which certifies to an identity of interest will be limited to a combined developer fee general contractor profit of 18% of total project cost less expenditures on land, working capital, marketing, escrows, operating deficit reserves, syndication, and costs associated with step-in the shoes basis exceeding acquisition price.

CERTIFICATION

I, _____, hereby represent and state that the foregoing information and any attachments thereto, to the best of my knowledge, are true and complete. I acknowledge that the New Jersey Housing and Mortgage Finance

Agency is relying on the information contained herein and thereby acknowledge that the undersigned entity is under a continuing obligation, from the date of this Certification through the completion of the Project, to notify the Agency in writing of any changes to the answers or information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am and/or the undersigned entity is subject to criminal prosecution under the law.

Sworn and subscribed to before the undersigned Notary Public on the date appearing below

 Witness _____ (L.S.)

 Print Name

 Print Title

(INDIVIDUAL OR PARTNERSHIP FORM)
BE IT REMEMBERED, that on _____, 199____,

before me, the subscriber, personally appeared _____, who, I am satisfied, the person named in and who executed the within Instrument, and thereupon he/she acknowledged that he/she signed, sealed and delivered the same as his/her act and deed, for the purposes therein expressed.

Notary Public

(CORPORATE FORM)

BE IT REMEMBERED, that on _____, 199____, before me, the subscriber, personally appeared _____, who, being duly sworn on his/her oath, deposes and makes proof to my satisfaction, that he/she is the Secretary of _____, Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in the presence of deponent, who thereupon subscribed his/her name thereto as attesting witness.

Notary Public

EXHIBIT 3
SPONSOR'S CERTIFICATION

- Application
- Re-Application
- Carryover

Placed in Service/Allocation

State of _____

SS.

County of _____

The undersigned, as the duly authorized representative of _____, the developer/applicant and/or the recipient of an allocation by the New Jersey Housing and Mortgage Finance Agency ("Agency") of a Low-Income Housing Tax Credit pursuant to Section 42 of the Internal Revenue Code of 1986 ("Code"), as amended, for the project known as _____

_____ acknowledges and certifies as follows:

1. You must check and complete one of the following:

It is anticipated that the project will be placed in service on, or prior to, December 31, ____

-OR-

The project was placed in service on _____

2. The developer/applicant/recipient fully intends to abide by all applicable federal laws and regulations relating to the Low-Income Housing Tax Credit.

3. The developer/applicant/recipient is not relying on any Agency statements or representations as to the value of the allocation of the low-income housing tax credit, including, but not limited to, representations or statements concerning the initial and continuing project eligibility under applicable federal law, calculation of qualified basis and eligible basis, determination of whether federal subsidy is involved, term of the tax credit, term of the compliance, potential impact of future changes in federal law and applicability of recapture requirements and penalties.

4. The developer/applicant/recipient must enter into an extended low-income housing commitment with the Agency pursuant to Section 42(h)(6) of the Code in which the taxpayer and his/her successors agree to meet the elected set aside and the applicable fraction of low-income occupancy for an extended use period of at least fifteen years beyond the fifteen-year compliance period (subject to possible termination of the extended use period under circumstances described in the Code). The agreement incorporates a Deed of Easement and Restrictive Covenant to be executed by the tax credit recipient and recorded by the Agency. The Deed of Easement and Restrictive Covenant must be executed in the form required by the Agency and delivered to the Agency prior to the time of allocation (IRS Form 8609). It is further acknowledged that the terms of the Deed of Easement and Restrictive Covenant will be enforceable by the Agency or by qualified prospective, present or former low-income occupants of the Project in the state courts during the extended use period. The Deed of Easement and Restrictive Covenant may have a negative effect on the future value of the Project.

The undersigned further acknowledges that the developer/applicant/recipient will need the consent of any present mortgage holders on the subject property to record the restrictive covenant since any foreclosing taxpayer may neither evict without cause nor increase the gross rent on low-income units until three years after he/she forecloses on the project and terminates the extended use period.

5. The development costs of the project (as of this time) as detailed in the attached breakdown of costs and basis were prepared by the developer/applicant/recipient or his/her agents and are accurate to best of his/her knowledge. All funding commitments recited in the Agency Low-Income Tax Credit Application are firm commitments.

6. Section 42(m)(2) of the Code dictates that the housing credit agency shall not allocate tax credits exceeding the amount needed for project feasibility. Consequently, the developer/applicant/recipient consents with this certification to a possible reduction of credits subsequent to needs analyses conducted by HMFA at carryover and placed in service dates.

7. If this is a reapplication, you must check one of the following:

- Project did not receive full credit amount supportable by the project's eligible basis in a prior year
- Project did not receive allocation in a previous cycle
- Project is seeking additional credits

8. If this is a reapplication, you must check one of the following:

- NO changes to the previously submitted application have been made.
- Changes have been made in this reapplication. Documentation substantiating these changes are included with this reapplication as specified by the Qualified Allocation Plan.

I understand that it is a criminal offense to make a false statement or a purposely misleading statement on this Certification and that if I do, I and the entity which I represent, will be subject to criminal prosecution, possible loss of tax credit allocation, and disqualification from future participation in the Low Income Housing Tax Credit Program in New Jersey.

Sworn and subscribed to before the undersigned Notary Public on the date appearing below:

Witness (Secretary of Corporation) _____ (L.S.)

(Print Name and Title)

ACKNOWLEDGEMENT

(INDIVIDUAL OR PARTNERSHIP FORM)

BE IT REMEMBERED, that on _____, 199____,
before me, the subscriber, personally appeared, _____

who, I am satisfied, is the person named in and who executed the within Instrument, and thereupon he/she acknowledged that he/she signed, sealed and delivered the same as his/her act and deed, for the uses and purposes therein expressed.

Notary Public

(CORPORATE FORM)

BE IT REMEMBERED, that on _____, 199____,
before me, the subscriber, personally appeared _____,

who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction, that he/she is the Secretary of _____

the Corporation named in the within Instrument; that _____ is the President of said Corporation; that

the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in the presence of deponent, who thereupon subscribed his/her name thereto as attesting witness.

Notary Public