GOVERNMENT OF PUERTO RICO
PUERTO RICO HOUSING FINANCE AUTHORITY

NÚMERO: 9418
Fecha: 16 de noviembre de 2022
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Secretario de Estado
Departamento de Estado
Gobierno de Puerto Rico

LOW-INCOME HOUSING TAX CREDITS 2022 QUALIFIED ALLOCATION PLAN

PUERTO RICO HOUSING FINANCE AUTHORITY

Rev. Nov-2022

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FOREWORD

As part of Puerto Rico's government public policy, the Puerto Rico Housing Finance Authority (**Authority** or **PRHFA**), housing credit authority for the Government of Puerto Rico, has the objective to facilitate the process of construction, rehabilitation, and acquisition of low- and moderate-housing cost in Puerto Rico. Recent and constant demographic changes have caused an increased need for housing to be occupied by low and moderate-income families. The Authority will make this 2022 Qualified Allocation Plan (**2022-QAP**) a component of the forthcoming Notice of Funding Availability (**NOFA**) that will be issued. The NOFA intends to leverage other funds managed by the Authority, such as HOME Program (around $30MM) and Housing Trust Fund (**HTF**) (approximately $8MM), under joint underwriting criteria compatible with the 2022-QAP in order to maximize the use of public and private funds channeled to affordable rental projects meeting the housing needs and goals established in the State Housing Plan. Nonetheless, any representation and/or guideline contained in the NOFA will not be intended to, nor it statutorily could, modify or supersede the Authority's responsibility to comply with Section 42 requirements as the USA Internal Revenue Code applies to state allocating agencies.

Similarly, the USA Congress has adopted the Low-Income Housing Tax Credits Program (**LIHTC** or **Tax Credit**) as part of the Reform Act of 1986 (Annex A). LIHTC provides a financial incentive to construct, rehabilitate, and operate rental housing for low-income tenants. A ten (10) year Tax Credit is available for each unit set-aside for low-income use as long as eligible households occupy a specific proportion of units in a building or project. The rents charged on the set-aside units are restricted and eligible households must occupy them or such units becoming vacant must be held open for eligible households for at least fifteen (15) years, plus a minimum of fifteen (15) additional years that the Authority and LIHTC requires.

Fragility in the low and moderate cost housing market has come to full exposure as a result of Hurricanes Irma and María. The degree of damage caused by the hurricanes was worsened due to widespread destruction of inadequate housing structures and damage to unoccupied, unmaintained homes. It has been estimated that anywhere from forty-five percent (45%) to fifty-five percent (55%) of Puerto Rican households have either erected or maintained houses through informal construction, a self-managed method of construction completed without the use of a Registered Architect (**RA**) or Professional Engineer (**PE**), proper permits, and often in non-conformance with land-use

codes. This type of construction reduces the structural integrity of homes to withstand natural environmental conditions and renders them ineffective to withstand hurricane conditions.

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

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

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

The IRS Revenue Procedure 2021-45 established the 2022 Tax Credit to be the greater of the annual per capita Tax Credit of $2.60 per habitant or $2,975,000. The population of Puerto Rico for 2022 is 3,263,584; based on Internal Revenue Notice 2022-22 of March 21, 2022. The 2022 annual per capita cap multiplied by the population of Puerto Rico represents $8,485,318 in Tax Credits. The Authority will make available for allocation the 2022, 2023, and 2024 per capita Tax Credits.

Further, IRS Notice 2021-45 provides that under Section 305(a)(1) of the *Taxpayer Certainty and Disaster Tax Relief Act* of 2020 (**DTRA**), for purposes of Section 42, the state housing credit ceiling for any of 11 selected states (including Puerto Rico) located in qualified disaster zones for each of calendar years 2021and 2022, shall be increased by the aggregate housing credit dollar amount allocated by the State housing credit agencies to buildings located in such qualified disaster zone, as the case may be. According to IRS Notice 2021-45, the portion of Puerto Rico's population living in qualified disaster zone is 1,053,857 and represents an additional $3,688,500 in 2022 Tax Credits for projects to be developed in the municipalities located within the designated qualified disaster zone (Adjuntas, Aguada, Añasco, Arecibo, Barceloneta, Cabo Rojo, Ciales, Coamo, Corozal, Guánica, Guayanilla, Hormigueros, Jayuya, Juana Díaz, Lajas, Lares, Las Marías, Maricao, Mayagüez, Moca, Morovis, Naranjito, Orocovis, Peñuelas, Ponce, Rincón, Sabana Grande, Salinas, San Germán, San Sebastián, Santa Isabel, Utuado, Villalba, and Yauco) that were impacted by Tropical Storm Isaias (FEMA-4560-DR), Earthquakes of 2019 & 2020 (FEMA-4473-DR); and severe storm and flooding of September 13, 2020 (FEMA-4571-DR).

Based on the foregoing, and taking into consideration the 2022, 2023, and 2024 Tax Credit Annual per capita, DTRA Tax Credits, and carryforward of 2021 unused Tax Credits ($8,165,904) the total 2022 Tax Credits available represents $33,622,521 of which existing 10% are reserved for the Nonprofit Set-Aside, and 50% of per capita Tax Credits of 2022, 2023, and 2024 will be reserved for the Puerto Rico Public Housing Administration (**PHA**) Set-Aside.

The distribution for the NOFA-2022 will be:

• Undesignated Tax Credits:	$13,843,858
• Nonprofit Set-Aside:	$3,362,186
• PHA Set-Aside:	$12,727,977
• DTRA 2022-Tax Credits:	$3,688,500
• **TOTAL**	**$33,622,521**

Also, under the Community Development Block Grant-Disaster Recovery (**CDBG-DR**) Gap to LIHTC program (**Program**) the Puerto Rico Department of Housing (**PRDOH**) has

set-aside an allocation of $250,000,000 in CDBG-DR funds in the Program for the preservation, rehabilitation, or qualified new construction projects under a comprehensive plan to redevelop, replace, and/or rehabilitate existing Puerto Rico Public Housing Administration's inventory. Finally, other funds managed by the Authority, the HOME Program (around $30MM) and Housing Trust Fund (**HTF**) (approximately $8MM) will be available for the NOFA-2022.

This 2022-QAP addresses the application and selection process to obtain an allocation of LIHTCs either through the competitive selection criteria, structured as a NOFA-9% LIHTC, or the allocation of 4% LIHTC to projects financed with tax-exempt obligations subject to the annual bond volume cap limitations under Section 146 of the Code. The 4% LIHTC projects are not subject to the competitive selection process but must meet the minimum Basic Threshold and Point Evaluation requirements (see Section 9 for further details).

The Authority and the PRDOH intend to leverage Tax Credits to extend the impact of CDBG-DR funding with the aim to preserve, rehabilitate, redevelop and/or replace the inventory of PHA units. All developments funded through this Program will benefit low and moderate-income (**LMI**) populations. The Authority welcomes for-profit and nonprofit applicants to meet the affordable housing need.

All Procedural and substantive criteria contained in the 2022-QAP supersede any criteria published in previous allocation plans.

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

2022

Low-Income Housing Tax Credits Qualified Allocation Plan

1. Legislative Requirements for the State Qualified Allocation Plan (2022-QAP)

The Omnibus Budget Reconciliation Act of 1989 mandated that state housing credit agencies adopt plans for the allocation of the Tax Credits among qualified low-income housing projects. The Governor of Puerto Rico (**Governor**) must approve the 2022-QAP after the public has had the opportunity to comment through a public hearing.

The guidelines and requirements set forth in this 2022-QAP will be utilized in the processing of LIHTC.

2. Internal Revenue Code Requirements

The housing credit authority for the Government of Puerto Rico is the PRHFA. Section 42(m)(1)(B) of the Internal Revenue Code of 1986, as amended (**IRC** or **Code**), requires the 2022-QAP to:

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

Section 42(m)(1)(C) of the Code requires the 2022-QAP to include certain selection criteria:

- project location;
- housing needs characteristics;

- project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan;
- sponsor characteristics;
- tenant populations with special housing needs;
- public housing waiting lists;
- tenant populations of individuals with children;
- projects intended for eventual tenant ownership;
- energy efficiency of the project; and
- historic nature of the project.

Every project, including those financed with tax-exempt obligations issued after December 31, 1989, must satisfy the requirements for allocation of Tax Credits. However, projects financed through tax-exempt obligations are not subject to the Annual Tax Credit Volume Cap.

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

3. Housing Needs Assessment

3.1. Priorities identified in the Public Policy of Puerto Rico

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

The Authority seeks to promote:

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

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

In response to Hurricanes Irma and María, Puerto Rico has developed a Disaster Recovery Action Plan (**Action Plan**) to define how the Island will address the urgent humanitarian needs of its residents while also developing and implementing a transformative recovery. This recovery is based on the available funding to recover and rebuild, and just as importantly, to stimulate economic growth in every affected community. As recognized in the Action Plan in compliance with the U.S. Department of Housing and Urban Development (**HUD**) requirements detailed in Federal Registers 83 FR 5844 and 83 FR 40314, Puerto Rico has completed an unmet needs analysis to guide the recovery, based on best available data. (Access the current Action Plan at Action Plan Amendment 8 (Nonsubstantial Amendment): Effective on February 25, 2022 - CDBG (pr.gov))

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

Fragility in the low and moderate cost housing market has come to full exposure as a result of Hurricanes Irma and María. Consequently, cost-burdened households face exacerbated challenges in the search for safe, affordable housing. There are more than 14,500 tenant households and more than 13,300 owned homes that are overcrowded by one (1) or more persons.[1] According to the Puerto Rico Builders' Association Report on the Housing Industry Situation, February 28, 2018, 56.8% of currently rented properties rent for less than $500 a month, representing more than half of the population of renters. Approximately 36.4% of renters pay between $500 and $999 in rent per month, while 6.8% pay between $1,000 and $3,000 per month. An estimated 53,000 tenant households live in substandard housing.

The Action Plan utilized the Social Vulnerability Index (**SoVI**) to establish a standardized, replicable, and pragmatic process for identifying those areas most impacted and most vulnerable to recovery barriers across the Island. Utilizing the Social Vulnerability Index empirically delineates the most socially vulnerable census tracts within each FEMA IA designated municipality. Residents in these high vulnerability areas generally have a lower ability to adequately prepare for, respond to, and rebound from environmental impacts (such as floods), shocks, and stresses. Targeting recovery resources to these most heavily impacted and vulnerable areas may yield high benefit because these areas are currently much less able to bounce back without outside assistance. The analysis found that although there was damage across nearly the entire Island, the impacts (according to an extensive analysis of FEMA Verified Loss Data) in certain areas was concentrated more extensively, especially when compounded with an inability to bounce back (social vulnerability).

[1] Estudios Técnicos, Inc. (Ed.). (2018). Report *on the Housing Industry Situation*. San Juan, PR: Puerto Rico Builder's Association.

By combining social vulnerability information with FEMA damage data, the PRDOH created the below map of low to high SoVI communities where FEMA verified-loss applicants are located (see Figure 1).

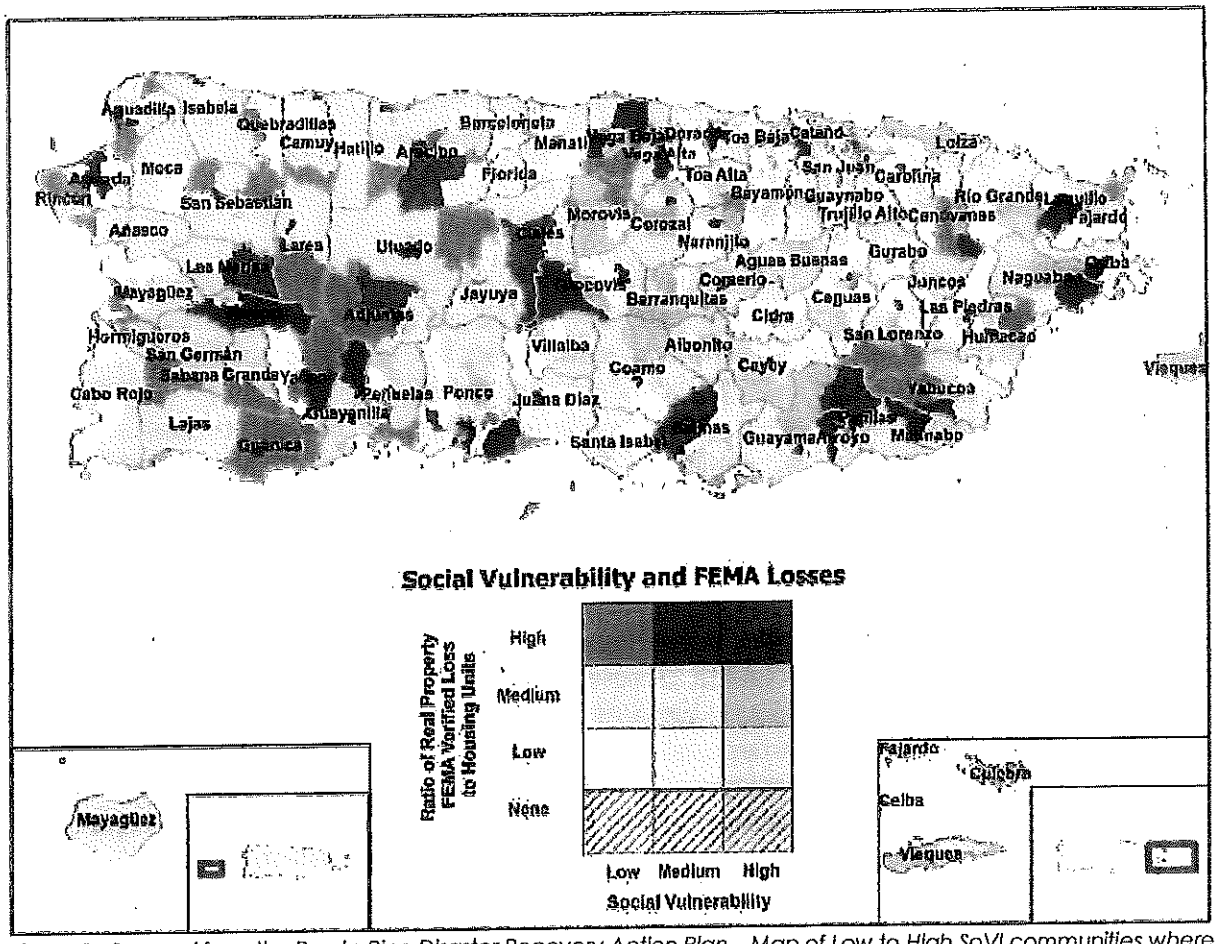


Figure 1. *Sourced from the Puerto Rico Disaster Recovery Action Plan – Map of Low to High SoVI communities where FEMA verified loss applicants are located.*

As part of the unmet need's analysis, the Action Plan identifies special needs populations, social housing, LMI populations, Medicaid dependent residents, children and youth welfare, and special communities, and homeless persons, amongst others, as part of the most vulnerable populations and prescribes measures for consideration to address as part of the disaster recovery activities.

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

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

In partnership with the Puerto Rico Public Housing Administration, redevelop, replace, and/or rehabilitate their existing inventory.

4. Housing Priorities

4.1. Criteria.

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

4.2. Basis Boost Policy: 30% basis boost.

4.2.1. Pursuant to section 42(d)(5)(B)(v) of the Code, any project located within an urban area, as the term is defined under the selection criteria, or any portion thereof, that is not contained by or designated as a Qualified Census Tract (**QCT**) shall be treated as located in a Difficult Development Area (**DDA**). The designation seeks to encourage the development of projects in the urban centers, including those in Municipalities that are underserved by being excluded from a designated DDA or QCT, while targeting the rehabilitation of urban areas as enunciated under the Public Policy of Puerto Rico. (Annex D)

4.2.2. Outside a QCT, DDA or the previous designations, any project the Authority determines that needs a basis boost to be economically feasible might receive the necessary amount of boost, up to the maximum thirty percent (**30%**) allowed. A request for the basis boost must detail the reasons for its financial need and conclusively show that the boost is needed. At its sole discretion, the Authority will determine during the underwriting process if a State designated basis boost is required for financial feasibility.

4.2.3. These are the exceptions to 30% basis boost:

4.2.3.1. It does **NOT** apply to the acquisition costs of existing buildings, and all related acquisition fees.

4.2.3.2. The discretion explained in section 4.2.2 does not apply to projects with tax-exempt financing, under section 42(h)(4) of the Code, not subject to the Annual Tax Credit Volume Cap.

4.3. Set-Asides.

4.3.1. **Nonprofit Set-Aside: Ten percent (10%)** of the PRHFA's annual Tax Credit ceiling. Unallocated Tax Credits under the set-aside following the close of applications for the cycle become unused carryforward in next year's Authority Tax Credit ceiling. If Tax Credits are exhausted in a designated set-aside pool, all projects submitted for such set-aside pool will compete in the general pool or, if eligible, in another available set-aside pool. The Authority may designate additional Tax Credits set-asides.

4.3.2. **Puerto Rico Public Housing Set-Aside: Fifty percent (50%)** of the PRHFA's 2022-2023-2024 annual Tax Credit ceiling will be set aside for the

development, redevelopment, preservation, rehabilitation, or qualified new construction projects that include public housing or are replacement public housing (i.e., Section 8 per HUD's Rental Assistance Demonstration (**RAD**) ,Section 18 Disposition programs or Faircloth to RAD) that are part of a comprehensive plan to redevelop, replace, and/or rehabilitate PRPHA-owned properties. This set-aside is limited to developer's partners whose proposals were selected pursuant to the Request for Qualifications for Public Housing Development Partners Services DOH-RFQ-18-19-01.

For purposes of reservation of Tax Credits pursuant to the PHA set-aside category, the Authority reserves the right to waive any basic threshold requirement described herein, provided any such waiver does not violate Section 42 of the Code, or any other applicable laws and regulations, including the Authority's determination of least amount of credits necessary to make a project economically viable. A waiver pursuant to this clause will need a prior written request from the applicant and the corresponding formal response from the Authority prior to any application submittal.

4.3.3. Any unallocated credits under the PHA Set-Aside will be made available for other eligible projects in the general pool.

4.3.4. Tax-exempt bond financed projects are not subject to the above set-aside considerations.

5. Tax Credit Allocation Methodology and Criteria

5.1. Initial Submission - Basic Threshold Qualifications.

To be considered for a reservation of Tax Credits, and have the opportunity to be ranked pursuant to the point scoring system of Section 5.4 below, all Applicants must submit an application that will be made available on the Authority's website (www.afv.pr.gov/nofa2022). Interested Applicants must follow the process and submit all required documents, including full payment of fees and demonstrate that the owner and the project meet the initial basic threshold qualifications by the provided deadlines. Instructions for completing the Application will be available on the PRHFA's website. Questions regarding the application process must be submitted via email to nofa2022comments@afv.pr.gov.

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

5.1.1.1. Owners' Certification (Annex G).

5.1.1.2. Accountant's Opinion (Annex H).

5.1.1.3. Attorney's Opinion (Annex I).

5.1.1.4. Proposed detail of sources and uses of funds schedule and construction cash flow. Projected thirty (30) year pro-forma income and expense cash flow (or any other period, as applicable) showing a feasible operation, prepared according to the Underwriting Standards described herein, and certified by the proposed management agent.

5.1.1.5. Designer's Preliminary Certification (Annex J) and PRHFA-Oversight & Quality Assurance Program-Accesibility Standards Checklists on appendixes A, B, and C (Annex F).

5.1.1.6. Audited Financial Statements (updated **within six (6) months** of the application; only applicable to **juridical persons**) of the developer, general partners, managing members, owners, and sponsors of each entity. If is an entity of new creation, CPA certification of a new entity and most recent statements, if created within six (6) months of the application.

5.1.1.7. Compiled or Revised Financial Statements (updated **within six (6) months** of the application; only applicable to **natural persons**) of the shareholders, directors, principals, officers, members, and partners of the owner, developer, managing member, and general partner. This requirement does not apply to applicants requesting Tax Credits under the nonprofit set-aside.

5.1.1.8. As a minimum, the **combined net worth** of all entities and natural persons involved in the ownership structure of the project (excluding actual or future limited partners and/or Tax Credit equity providers) must be **equal to or greater than one million dollars $1,000,000.00**.

5.1.1.9. **No minimum net worth** amount will be required for **nonprofit owner/developer** proponents if compliance with nonprofit status requirements is met according to this 2022-QAP.

5.1.1.10. Written unqualified endorsement from the Mayor or Authorized Representative of the Municipality where the project will be located.

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

All previous participants must also evidence via sworn statement that they have not been involved or are in any conflict of interest (fact or appearance) in any way (either personally or in any other juridical capacity) with the Authority, employees, officers, or agents participating in any capacity in the procurement, selection, award, or the administration of a contract or agreement supported under the 2022-QAP or the Notice of Funding Availability (**NOFA**). Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Authority must neither solicit nor accept gratuities, favors, or anything of monetary value from proponents, awardees, contractors, or parties to subcontracts. To ensure objective consultant performance and eliminate unfair competitive advantage, contractors that develop or participate in drafting specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing in any capacity for such procurements. Any conflict of interest will immediately disqualify the applicant of any participation in the Authority programs.

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

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

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

(a) Is also an officer, director, board member or authorized agent of any other development team member;

(b) Has any financial interest in any other development team member's firm or corporation;

(c) Is a business partner[2] of an officer, director, board member or authorized agent of any other development team member;

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

(d) Has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any other development team member; or

(e) Advances any funds or items of value to the sponsor/borrower."

5.1.2.1. Identity-of-interest Limitations: PRHFA will impose restrictions on the amount of certain fees in the following Identity of Interest situations

- An identity-of-interest between the seller and buyer of real estate, on Rehabilitation developments, results in a developer fee limitation

  - The developer fee for the **acquisition portion** is limited to 3% of the acquisition costs or a minimum of $5,000 (not including land).
  - The developer fee for the **acquisition portion** for preservation projects involving HUD/RD and PR-Law 173 will be limited to 5% of the acquisition costs or a minimum of $15,000 (not including land).
  - The developer fee for the **rehabilitation portion** will be restricted to:

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

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

- When an identity-of-interest exists between the developer, owner, and general contractor the following limitations will be applied:

  - For projects with 50 units or less, the combined total of the general requirements, contractor's profit and overhead, consultant's fee, real estate attorney's fee, developer's fee, and developer's overhead will be limited to 25% of the total development costs.

  - For projects over 51 units the combined total of the general requirements, contractor's profit and overhead, consultant's fee, real estate attorney's fee, developer's fee, and developer's overhead will be limited to 20%.

5.1.3. The owner, developer and their shareholders, directors, officers, partners, and members, as applicable, with previous participation in the program, or any other low-income housing program, must demonstrate (through a certification letter from the Director of the Authority's Federal Funds Compliance Office) that they comply with all applicable compliance requirements and that there is no outstanding finding of noncompliance (including any fees due to the Authority) in another project that received Tax Credits, or any other funds managed by the Authority, and in which they have an interest, participation, ownership or management.

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

5.1.4.1. Non-Conflict of Interest Certification (Exhibit X)

5.1.4.2. Non-Conflict of Interest on Existing or Pending Contracts Certification (Exhibit Y)

5.1.4.3. Limited Denial of Participation Affidavit (Exhibit Z)

5.1.4.4. Certification Regarding Debarment Suspension, Ineligibility, and Voluntary Exclusion duly completed and notarized (Exhibit AA).

5.1.4.5. Certification Regarding Debarment Suspension, Ineligibility, and Voluntary Exclusion) duly completed and notarized (Exhibit BB).

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

5.1.5. Other Required Documents: Applicants shall submit the following documents duly completed and notarized:

5.1.5.1. Anti-Lobbying Certification (Exhibit CC)

5.1.5.2. Authorization for Background and Financial Information (Exhibit DD)

5.1.5.3. Entity Prior Performance Certification (Exhibit EE).

5.1.5.4. Certification of No Benefits Received (Exhibit GG).

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

5.1.6. Evidence of readiness to proceed as demonstrated through submission of:

5.1.6.1. Percentage of construction completion certified by project construction manager and lending institution inspector (both reports required), in case project is under construction.

5.1.6.2. Unexpired evidence of site control. This may be in the form of: a) a current deed evidencing fee simple ownership; b) a lease agreement with a term of not less than the period set forth in the extended low-income housing commitment executed by and between the Developer and the Authority, as it appears in the Developer's LIHTC Application; c) a contract of sale; d) a lease option with a term of not less than the period set forth in the extended low-income housing commitment executed by and between the Developer and the Authority, as it appears in the Developer's LIHTC Application; e) an option to purchase agreement, among others.

5.1.6.3. Recommendations of infrastructure issued by the Puerto Rico Permits Management Office (**OGPe**, by its Spanish acronym).

5.1.6.4. Unexpired construction permit, notification of approval of construction permit, urbanization permit, demolition permit, among others, filed with competent permits office, if available.

5.1.6.5. Zoning Certification, prepared by project's designer, stating that the proposed/current use of the property is permitted under applicable Zoning and Land Use laws and regulations, and that the applicable zoning authority is not aware of any zoning or land use violations with respect to the property. (Annex T).

5.1.6.6. Pursuant to Section 106 - 36 CFR Part 800, State Historic Preservation Office's (**SHPO**) Technical Assistance. The Technical Assistance letter shall indicate that there are no historic properties or that no adverse effect on historic properties is associated with the

undertaking or the agreed-to measures if such adverse effect is determined.

- Projects participating of the PHA set-aside: if the technical assistance letters have not been issued, SHPO and PRDOH have agreed to expedite the review of proposals under the 2022-QAP, and pursuant to Section 106 of the National Historic Preservation Act (**NHPA**), the PRDOH will receive and review the completeness of the documentation required from Applicants, before submitting it to SHPO.

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

Applicants interested in furthering an application for assistance under the 2022-QAP, must submit their request for technical assistance and related documentation through PRDOH or PRHFA. Please, for a detailed list of requirements refer to Exhibit W and: http://www.oech.pr.gov/ProgramaConservacionHistorica/Pages/Seccion-106.aspx

5.1.6.7. Wetland Inventory Map from the US Fish and Wildlife Service (**USFWS**) demonstrating project's location outside of any wetland, or a Wetland Preliminary Jurisdictional determination from the Corps of Engineers; indicating that the project does not affect wetland.

5.1.6.8. Project location must be identified in the NFIP Map (**FEMA Map**) to demonstrate compliance with the Floodplain Management Act – 24 CFR 55, Executive Order 11988. The project must be located outside the 100-year floodplain, coastal high hazard areas and if the project is located inside the 100-year floodplain, FEMA's approval letter of Map Amendment (**LOMA**) or Letter of Map Revision (**LOMR**) will be submitted.

5.1.6.9. Project location must be identified in the USFWS map to demonstrate compliance with the Coastal Barrier Resources Act of (**CBRA**) –24 CFR §58.6(b). Federal assistance may not be used in the CBRA system.

5.1.6.10. Pursuant to Sections 307(c) and (d) of the Coastal Zone Management Act, Certification of Consistency filed with the State Coastal Management Program, if required.

5.1.6.11. Pursuant to the Endangered Species Act – 50 CFR 402, technical assistance or final determination letter issued by the U.S. Fish & Wildlife Service (**USFWS**) of the Department of the Interior; it must indicate that the project does not affect endangered species.

5.1.6.12. Any project located within 1,000 feet of a major noise source, road, or highway, 3,000 feet of a railroad, or 5 miles of a civil airport, must provide a Noise Study as per the requirements set forth in the American National Standard Method for the Physical Measurement for Sound. Resulting noise level must comply with the acceptable level of 65 decibels established in 24 CFR 51.100 – Noise Abatement and Control.

5.1.6.13. Field studies:

- Soil survey, if project is for new construction or substantial rehabilitation requiring addition or expansion to structures.

- Archeological, if required by the SHPO pursuant to its review under Section 106, or if required by the Institute of Puerto Rican Culture (**ICP**, by its Spanish acronym) or copy of the recommendation issued by the ICP as part of the construction permit consultancy process evidencing that the study is not required.

- Hydraulic/Hydrologic, if the project meets the conditions established under the Puerto Rico Department of Natural and Environmental Resources' (**DRNA**, by its Spanish acronym) Administrative Order No. 2013-12, or a certification issued by a PE attesting that the study is not required.

5.1.6.14. Letter of intent from interim and/or permanent financing source specifying terms of available financing.

5.1.6.15. Projects with permanent financing other than the Authority's will need a letter of intent from the financial institution. Applicant must submit a firm commitment letter to finalize the reservation of Tax Credits. This letter should detail:

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

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

5.1.6.16. Development team in place: architect/designer, general contractor, construction manager, resident inspector, management agent, accessibility coordinator, consultants, their resumes and their contracts, or approved commitment letters, with each applicable party.

5.1.6.17. Architectural drawings of the proposed new construction and/or rehabilitation, including, but not limited, site plan, building

elevations, and unit floor plans. The designated architect/designer, duly licensed in Puerto Rico, and accessibility coordinator shall certify that the development will comply with the *Oversight & Quality Assurance Program-Accessibility Standards Manual* (Annex F), pursuant to the Conciliation Agreements and Voluntary Compliance Agreements) dated July 21, 2016 and April 26, 2021[3], respectively (**VCA**, this acronym will apply to the two agreements named in this section and through the QAP), among others that might apply; by the submission of:

- Accessibility Standards checklists provided on the *Oversight & Quality Assurance Program-Accessibility Standards* duly completed, certified, and signed by the project's designer/architect **and** proposed Accessibility Coordinator (as defined and required by the *Oversight & Quality Assurance Program-Accessibility Standards* Manual):
  - Appendix A: ADA Accessibility Verification Checklist
  - Appendix B: Fair Housing Act Accessibility Checklist
  - Appendix C: Uniform Federal Accessibility Standards

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

- The project designer/architect and the accessibility coordinator shall certify the reading and comprehension of the Oversight and Quality Assurance Program (Annex F). Also, certify that quality control procedures will be properly followed.

- Proof of professional liability insurance covering the Project's designer/architect for an amount not less than ten percent (10%) of the estimated construction cost, in case of negligence. The insurance coverage must include negligent acts, accessibility errors and/or omissions under the Fair Housing Act (**FHAct**) and, wherever applicable, the 2010 American with Disabilities Act (**ADA**) standards and the Uniform Federal Accessibility Standards (**UFAS**) [with the application must file, at least, a pro-forma or commitment letter from an insurance company and present the fully paid policy at closing].

- Proof of performance or surety bond for one hundred percent (100%) of the construction contract, or as determined by the Authority. Also, coverage must include accessibility errors and/or omissions under the FHAct and, wherever applicable,

[3] (1) Conciliation Agreement and Voluntary Compliance Agreement between The United States Department of Housing and Urban Development and Alicea Cruz, Wanda L.(Complainant) and Égida Vistas del Río, *et. al.*(Respondents), Title VII Case number: 02-16-4437-8 and ADA case no.: 02-16-0038-D filed July 21, 2016; and (2) Voluntary Compliance Agreement between HUD, Office of Fair Housing and Equal Opportunity and M.J. Consulting & Development, Inc., Rio Plata Housing, LLC, Desarrolladora Rio Plata, Inc Rio Plata Development, Puerto Rico Housing Finance Authority Under Section 504 of the Rehabilitation Act of 1973 (case 02-20-0030-4) and Title II of the Americans with Disabilities Act of 1990 (case 02-20-0016-D) of April 26, 2021.

the 2010 ADA standards and UFAS.) [with the application must file proof of bondable capacity from an insurance company and present the fully paid bonds at closing]

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

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

- The Applicant shall provide the following documentation to demonstrate compliance:
  - Project narrative, plans and specifications (updated) with the Green Building Standard requirements. Description of the design parameters, strategies, and the implementation process to ensure compliance with the selected Standard(s). Includes statement of the projects overall green development goals and expected intended outcomes of addressing those goals.
  - Notification of which Green Building Standard(s) is being pursued.
  - Certification of Compliance certifying that the project complies with the selected Standard(s).[4]
  - Provide a checklist, or other suitable documentation, which demonstrates adherence to the selected Standard(s).

[4] The Certification of Compliance does not replace the Final Green Building Standard Certification in the case of new construction/replacement of substantially damaged residential buildings.

- Notification of the Person/Team in charge of the implementation of the Green Building Standard(s) at the Project.
- For those cases pursuing the *Permiso Verde*, submit the following:
  - A valid prequalification certification from OGPe (*Certificado de Pre-Cualificación de Proyecto Verde-OGPe*).
  - Notification of the Green Design Guides under *Permiso Verde* that will be pursued.
  - Register the Project with the organization or entity in charge of providing the certification of the project from the selected Green Building Standard.
  - Provide application or registration confirmation evidence.
  - Supporting documentation as deemed necessary or requested by the Authority during the process of the application evaluation and throughout the duration of the project.

- For rehabilitation of non-substantially damaged structures, Developers shall adhere to the guidelines specified in the HUD Community Planning and Development (**CPD**) Green Building Retrofit Checklist[5], to the extent applicable, of the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall (see Annex V). When rehabilitation work includes replacing older or obsolete products, the Developer must use ENERGY STAR®-labeled, Water Sense-labeled, or Federal Energy Management Program (**FEMP**)-designated products and appliances.

- The Applicant shall provide the following documentation to demonstrate compliance:
  - Project narrative, plans and specifications updated with the HUD CPD Green Building Retrofit Checklist requirements. Describe the design parameters, strategies, and the implementation process to ensure compliance with such Checklist. Include statement of the projects overall green development goals and expected intended outcomes of addressing does goals.
  - Certification of Compliance certifying that the project complies with the HUD CPD Green Building Retrofit Checklist.[6]

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

[6] The Certification of compliance does not replace the final certification of compliance for the rehabilitation of non-substantially damaged structures.

- Provide the HUD CPD Green Building Retrofit Checklist with the project's implementation measures.
- Notification of the Person/Team in charge of the implementation of the HUD CPD Checklist requirements at the Project.
- Supporting documentation as deemed necessary or requested by the Authority during the process of the application evaluation and throughout the duration of the project.

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

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

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

5.1.6.20. **Accessibility Requirements:**

- Pursuant the VCAs, all Applicants must comply with the following accessibility requirements:
  - **Twelve percent (12%)** of the total ground floor and/or elevator-serviced units' inventory must be made fully mobility-accessible and scattered under the 2010 ADA Standards and, wherever applicable, the UFAS; and
  - **Three percent (3%)** of the units' inventory must be made sensory-accessible and scattered under the 2010 ADA Standards and, wherever applicable, the UFAS.

- Prior to start construction, the Applicant shall provide the following:

- Final drawings of the proposed new construction and/or rehabilitation, including a site plan, building elevations, and unit floor plans, must be provided. The project designer and accessibility coordinator shall certify that the development will comply with the accessibility requirements of the FHA and, wherever applicable, the 2010 ADA Standards and UFAS, and applicable accessibility standards checklists (Annexes F.1, F.2 and F.3).

- A signed certification from the designated Accessibility Coordinator of the new construction and/or project rehabilitation must be provided as verification that all units and project common areas comply with the structural accessibility mandates of the Oversight & Quality Assurance Program-Accessibility Standards (Annex F).

- Along with the requirements stated on section 5.1.6.16 above.

- The Authority will verify the project applications for compliance with accessibility requirements as part of the Technical Review, which is required as a prerequisite to any reservation and/or award. The Authority will also cause the Applicant to comply with
  (a) Davis- Bacon and related acts (40 USC.§§ 276a-276a-7);
  (b) Contract Work Hours and Safety Standards Act (40 USC §§ 327-333);
  (c) Copeland (Anti-Kickback) Act (18 USC § 874/40 USC § 276c);
  (d) Fair Labor Standards Act of 1938, as amended (29 USC § 201, *et seq.*); and
  (e) Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC §1701u).

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

- During construction the Developer/Owner must:
  - Certify compliance with the Accessibility Standards on a monthly basis. A final certification of compliance regarding Accessibility Standards must be completed prior to project delivery.

- After construction/rehabilitation is completed the Developer/ Owner must provide:

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

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

5.1.6.21. Environmental Requirements:

- Environmental Review

Environmental Review (**ER**) is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. Every project undertaken with Federal funds, and all activities associated with such projects, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), as well as to the HUD environmental review regulations at 24 CFR Part 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.

Applications under the CDBG-DR Gap to LIHTC Program and any other CDBG program (Section 8, HOME, and HTF, among others) will be subject to a level of environmental determination for project activity. This review and determination (based on project Application) will be required prior to the development of any CDBG program Agreement (CDBG-DR, Section 8, HOME, HTF, etc.). The ER (based upon that level of environmental determination) will then be required prior to receiving funding.

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

The CDBG funds agreement (CDBG-DR, Section 8, HOME, HTF, etc.) will contain a provision prohibiting the State recipient, Subrecipient, or project owner from undertaking or committing

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

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

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

Be advised that if the project only applies for Tax Credits the ER explained in this section is not required. Nevertheless, after construction begins the project will not be eligible for any federal fund without an ERR (ex: CDBG-DR, Section 8, HOME, HTF, HOPWA, ESG, and NSP, among others).

5.1.6.22. Technical specifications certified by the project's architect/engineer.

5.1.6.23. Architectural drawings should also include a Certification from a qualified architect/engineer, retained for the accessibility inspection of the new construction and/or project rehabilitation and duly licensed in Puerto Rico., as verification that covered units and project common areas comply with the structural accessibility mandates of the FHA and, wherever applicable, the 2010 ADA standards and UFAS.

5.1.6.24. Cost breakdown certified by the proposed general contractor or project designer.

5.1.6.25. Letter of intent from syndicator or direct investor evidencing available private equity and indicating the credit price.

5.1.6.26. Pro-forma financial statements certified by the project's proposed management agent.

5.1.6.27. Organizational documents for all entities specified in items 3, 4, 5 and 7 of pages 1 through 3 of the Tax Credit Application worksheets. (Please refer to *Basic Threshold Review* checklist made part of the application package for applicable documents).

5.1.6.28. IRS Form SS-4 (application for Employer Identification Number) or other evidence of the taxpayer identification number for all entities specified in the previous item.

5.1.6.29. Owner must demonstrate its commitment to extend the initial 15-year period of compliance with the Tax Credit program's income and rent restriction requirements for a minimum of 15 additional years. (See Annex K).

5.1.6.30. Phase I environmental site assessment report and/or any other applicable environmental report. Any other report must comply with ASTM E 1527-13 or any updated version as ASTM promulgates which meets the requirements of EPA's AAI regulations.

5.1.6.31. Comprehensive market study report (updated **within six (6) months** of the application) performed by a provider unaffiliated with the developer, of the low-income housing needs in the area to be served. The market study should at least include:

- A statement of the competence of the market study provider, detailing education and experience of primary author and including statement of non-interest.

- A description of the proposed site and neighborhood, including physical attributes of site, surrounding land uses, and proximity to community amenities or neighborhood features including shopping, healthcare, schools, and transportation.

- A map and photos of the subject site and surroundings showing location of community services.

- An overview of local economic conditions, including employment by sector, list of major employers, and labor force employment and unemployment trends over past 5-10 years.

- A description of the proposed development, detailing proposed unit mix (number of bedrooms, bathrooms, square footage, proposed rents, AMI level, utility allowances, and any utilities included in rent), proposed unit features and community

amenities, and target population including age restrictions and/or special needs populations.

- Demographic analysis of the number of households in the market area that are part of the target market (*i.e.*, family, senior, etc.), income-eligible, and can afford to pay the rent, including a projected household base at placed in service date.

- Geographic definition and analysis of the market area, including description of methodology used to define market area and map of market area including proposed site.

- Analysis of household sizes and types in the market area, including households by tenure, income, and persons per household. Quantify the pool of eligible tenants in terms of household size, age, income, and other relevant factors. Not all residents of the market area are potential or likely tenants or buyers of any given project

- A description of comparable developments in the market area, including any rental concessions these developments presently offer.

- A description of rent levels and vacancy rates of comparable properties in the market area, segmented by property type (market rate, Tax Credit, deep subsidy) and with rents adjusted to account for utility differences and concessions or other incentives. **Such description should include all existing Tax Credit developments in the primary market area, any planned additions to rental stock including recently approved Tax Credit developments and certify that the proposed Tax Credit units will not have a negative impact in any existing Tax Credit project in the market area.**

- Expected market absorption of the proposed rental housing, including capture/penetration rate analysis of target populations. Evaluate the effective demand and the capture rate, usually expressed as a percentage (the project's units divided by the applicant pool). The capture rate is the percentage of likely eligible and interested households living within a reasonable distance from the project site who will probably need to rent units within the area. Also, expected market caption or absorption rate of the proposed rental housing, including capture/penetration rate analysis of target population; the maximum caption or absorption rate should be 10%;

- A description of the effect on the market area, including the impact on Tax Credit and other existing affordable rental housing.

- A statement on how the proposed project would address housing needs experienced as part of the Hurricanes Irma and María, Storm Isaias, Earthquakes of 2019 & 2020; and any other major disaster, as declared by the President of the United States, and how they would beneficiate the community in the situation of a natural disaster.

- A statement indicating that the development of new housing units will not have a negative impact on the occupancy and operations of existing rental projects (Tax Credit, HOME, HTF, among others) in the proposed project's municipality and market area.

- **THE AUTHORITY WILL CONSIDER THE MARKET STUDY, THE MARKET, MARKETABILITY FACTORS, AND ANY ADDITIONAL INFORMATION AVAILABLE TO DETERMINE IF AN ACCEPTABLE MARKET EXISTS FOR THE PROPOSED DEVELOPMENT. THE AUTHORITY WILL NOT BE BOUND BY THE CONCLUSIONS OR RECOMMENDATIONS OF THE MARKET REPORT AND RESERVES THE RIGHT TO DISQUALIFY ANY APPLICANT IN THE COMPETITION IF IT DETERMINES THAT AN ACCEPTABLE MARKET DOES NOT EXIST.**

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

- site;

- structural systems (roof, bearing walls and columns, foundations);

- plumbing systems;

- electrical systems;

- fire protection systems;

- building envelope and insulation;

- interiors (including units and common areas); and

- mechanical systems.

- Certification from a qualified RA or PE, retained for the accessibility inspection, duly licensed in Puerto Rico, of the project rehabilitation, as verification of the CNA Report and

that covered units and project common areas will comply with the structural accessibility mandates of the FHAct and, wherever applicable, the 2010 ADA standards and UFAS.

5.1.6.33. Appraisal report of site and property prepared by an approved and licensed appraiser within six months of the application.

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

5.1.7.1. is exempted from taxation under Section 501(a) of the Code and described in paragraph (3) or (4) of Section 501(c) of the Code;

5.1.7.2. materially participates[7] in the acquisition, development, and ongoing operation of the project throughout the entire compliance period; as well as an agreement to provide the Authority with annual certifications verifying continued involvement;

5.1.7.3. is not affiliated with, controlled by, or party to interlocking directorates with any Related Party of a for-profit organization, and the basis for said determination, as determined by a third- party legal opinion;

5.1.7.4. is eligible for the nonprofit set-aside pursuant to IRC Section 42(h)(5) as determined by a third-party legal opinion; and

5.1.7.5. fosters low-income housing as one of its exempt purposes.

5.1.8. A commitment letter indicating available funding issued by the Rural Development Housing Service of the US Department of Agriculture (**USDA-RD**) for projects that are financed or sponsored by the entity.

5.1.9. Sworn statement from applicant as to federal, state, or local subsidies received or expected to be received for the development and operation of the project. If available, copies of subsidy/grant contracts or commitment letters must be submitted with the application.

5.1.10. Acquisition/Rehabilitation projects must submit a certification attesting to the fact that there is a period of at least 10 years between the date of acquisition by the taxpayer and the date the building was last placed in service, under section 42, or any applicable exception to this rule.

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

5.2. Development Budget and Pro Forma Assumptions Review

5.2.1. Description

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

Projects applying for the PHA Set Aside must comply with the *CDBG-DR Gap to LIHTC Program Guidelines* and Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, and 2 CFR 200 (E), and any other applicable federal and state requirements, the Authority will perform an underwriting analysis and subsidy layer review on all proposal applications that request CDBG-DR funding under the NOFA (see Annex P)

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

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

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

5.2.2. Allowable costs and expenses

5.2.2.1. Intermediary costs

Shall not exceed five percent (5%) of Total Development Costs (**TDC**). The intermediary costs will include, but are not limited to:

- organizational costs;

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

5.2.2.2. Developer Fees

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

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

5.2.2.2.1 For new construction projects the Developer Fees will be restricted to:

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

For purposes of this calculation, development costs include all budgeted costs except the Land and Total Developer's Fees (overhead, profit, real estate attorney, consultant, and any other identified party), as defined above.

5.2.2.2.2 For rehabilitation projects the Developer Fee will be restricted to:

- The developer fee for the **acquisition portion** is limited to 4% of the acquisition costs or a minimum of $5,000 (not including land).

- The developer fee for the **acquisition portion** for preservation projects involving HUD/RD and PR-Law 173 will be limited to 6% of the acquisition costs or a minimum of $15,000 (not including land); plus

- The **rehabilitation portion** will be restricted to:

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

For purposes of this calculation, development costs include all budgeted costs except the acquisition portion, Land and Developer's Fees assigned to the rehabilitation portion (overhead, profit, real estate

attorney, consultant, and any other identified party), as defined above.

5.2.2.2.3 If there is an identity-of-interest the fees will be subject to the limitations stated on section 5.1.2.1.

Notwithstanding, the Authority reserves the right, in its sole discretion, to adjust the timing of payment of the developer's fee at any time to achieve or maintain a project's feasibility and long-term viability.

5.2.2.3. General Contractor Maximum Charges

- Builder's profit: six percent (6%) of construction contract amount.
- Builder's overhead: two percent (2%) of construction contract amount.
- General Conditions: six percent (6%) of construction contract amount.

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

If an identity-of-interest exists, the fees will be subject to the limitations stated on section 5.1.2.1.

5.2.2.4. Per Unit Minimums

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

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

5.2.2.5. Per Unit Cost Review

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

- site, including demolition, earthwork, drainage, pavement, curbs, sidewalks, parking, landscaping, water, sewer, storm drainage, gas and electric utilities and lines;

- structural, plumbing, electrical, fire protection, and vertical transportation systems;
- building envelope, thermal insulation, and air infiltration control systems;
- interiors, including units, common area finishes, and disabled persons accessibility improvements;
- energy efficiency and green technologies;
- construction methods, value engineering assumptions, cost index factors and sources and documentation of itemized costs submitted; and
- construction insurance and general and special conditions.

5.2.2.6. Acquisition Costs

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

5.2.2.7. Operating Expenses

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

5.2.3. Underwriting Parameters

5.2.3.1. Vacancy Rate:
- 5% in projects with project-based rental assistance;
- 7 % all other projects

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

5.2.3.3. Operating Expenses:
- 3.5% annual growth;

5.2.3.4. Debt Service Coverage Ratio (**DSCR**)
- Minimum 1.15 DSCR, and a maximum of 1.45 DSCR for projects with section 8 rental assistance, for the term of the permanent debt financing. Equals the proportion of the development's net operating income (operating income less operating expenses

and reserve payments) to foreclosable, currently amortizing debt service obligations.

5.2.3.5. Required Reserves

- Rent-up reserve shall be reasonable based upon projected rent-up time according to market and target population, but in no event shall be less than $250 per unit.

- Operating Reserve: four (4) months of: (a) projected operating expenses, (b) debt service, and (c) replacement reserve payment.

  It must be maintained throughout the term of the Tax Credit extended use period.

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

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

- Replacement Reserve
  - o New construction for elderly or non-elderly with 100% project-based assistance: $250 per unit per year.

  - o New construction non-elderly and rehabilitation: $300 per unit per year.

5.2.3.6. Project Based Rental Assistance

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

These limits are based on annual HUD data. If Section 8 HAP contracts, or other similar legislation allows rents above those limits, a project may receive the additional revenue based on such extra revenue

5.2.3.7. Profit and Return on Operations

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

5.2.3.8. Tax Credit Percentage

The Authority will use:

- 9%: for new construction and rehabilitation costs for applications under the competitive Tax Credits
- 4%: for the acquisition of existing buildings costs for applications under the competitive Tax Credits
- 4%: for Projects that use tax-exempt financing and non-competitive Tax Credits and applies to both acquisition and new construction/ rehabilitation costs.

5.2.3.9. Equity Pricing

- the Authority will use the price that owners will submit through a letter of intent/commitment from the investor/syndicator confirming the financial assumptions of the purchase.

5.2.4. Record and Notification

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

5.2.5. Cure Period

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

application, upon further review, will be deemed acceptable. The items that will be considered as "curable" are:

- The applicant may provide a required signature that has been omitted, unless the application was deemed substantially incomplete by the Authority; and

- The applicant may provide missing pages of incomplete documents.

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

5.3. Underwriting and Financial Feasibility Analysis

5.3.1. Description

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

Section 42 of the Code requires the Authority to allocate the Tax Credits necessary to make a project economically viable. Thus, no project may receive, regardless of its absolute or relative score in the Point Ranking System, more credits than the Authority's underwriting process identifies as required for financial viability. Specifically, the amount of Tax Credits will be the lesser of the:

5.3.1.1. maximum allowable under the Code according to the project's eligible basis and affordability level (*eligible basis analysis*);

5.3.1.2. project's current necessity as the Authority's underwriting determines (*sources and uses or equity gap analysis*); and

5.3.1.3. amount of tax credits requested.

5.3.2. Pro-forma statements

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

governmental subsidies, capital contributions, and funds from Authority's or other private programs.

The Authority reserves the right, at its sole discretion, to vary the above-described methodology and all Tax Credit allocation methodology and criteria in order to comply with Section 42 requirements, any state law requirements or to further the public policy set forth in this 2022-QAP.

5.4. Project Evaluation and Selection (Point Ranking System)

5.4.1. Description

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

The project can accumulate a total of **100 points** on the Point Ranking System. All projects must accumulate a minimum of **30 points** to be entitled to a reservation or an allocation of Tax Credits. The Authority anticipates reserving Tax Credits for projects scoring highest under the Project Selection Criteria up to the amount permitted by law and the 2022-QAP.

A PHA project needs to fulfill the Tax Credits requirement in order to compete for CDBG-DR funds allocated for the CDBG-DR Gap to LIHTC Program. PRHFA and PRDOH reserve the right to award selected Applicants in accordance with funds made available by HUD and based on any applicable statutory constraint at the time of award issuance.

ONCE AN APPLICANT SELECTS SCORING CRITERIA, THESE WILL BE FINAL, UNLESS A DIFFERENT CONCLUSION ARISES BECAUSE A STATE AND/OR A FEDERAL AGENCY DETERMINATION ALLOWS OTHERWISE.

To qualify for the 4% Credit and the PHA-Set Aside the project must accumulate, at least, the minimum thirty (30) points.

Subject to compliance with the minimum 30 points, the Authority may fund a lower scoring project if necessary to meet any Set-Aside category contemplated in this 2022-QAP. Likewise, the Authority reserves the right not to reserve or allocate Tax Credits to any applicant, regardless of that applicant's point ranking, if the Authority determines, in its sole and absolute discretion, that a reservation or allocation for such applicant or project does not further the purpose and goals of the Public Policy of Puerto Rico, the Action Plan, or this 2022-QAP; the applicant's proposed project is not financially viable; or there is not a substantial likelihood that the project will be able to meet the requirements for carryover or final allocation in a timely manner. The information that might be weighed to make such determination includes, but is not limited to, comments of officials of local governmental jurisdictions, the market appropriateness of the project and market information from sources other than the submitted market study, and the prior experience of sponsor or its representatives with

non-elderly projects. Pursuant to section 42(m)(1)(A)(iv) of the Internal Revenue Code, the Authority will make available to the general public a written explanation for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

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

5.4.1.1. Section 42 mandatory legislative criteria

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

5.4.1.2. Other Criteria

Applications will be evaluated according to:

- Preferred Project Location
    - **Municipalities affected by the 2019 and 2020 Earthquakes, as per the FEMA's Disaster Recovery Declaration-4473 (FEMA-DR-4473,** Designated Areas | FEMA.gov) declared in January 16, 2020 and amended on March 11, 2020. As per the FEMA-DR-4473, the following municipalities in Puerto Rico were affected by the Earthquakes of December 2019 and January 2020: **Adjuntas, Aguada, Arecibo, Barceloneta, Cabo Rojo, Ciales, Coamo, Corozal, Guánica, Guayanilla, Hormigueros, Jayuya, Juana Díaz, Lajas, Lares, Las Marías, Maricao, Mayagüez, Moca, Morovis, Naranjito, Orocovis, Peñuelas, Ponce, Sabana Grande, Salinas, San Germán, San Sebastián, Utuado, Villalba, and Yauco.**
    - **Urban area** defined as: Central Urban Area as defined by Planning Board's *Reglamento de la Infraestructura en el Espacio Público* (Annex Q); or Urban Center designated by the Department of Transportation and Public Works or adopted under an Urban Center Area Plan (Annex Q); or a state-designated Historical Zone or federally-designated Historical District.

- The portion of a census tract outside an urban area, as defined above, that has a designated below poverty line rate, as specified in section 5.4.2.

- The zone of influence around an Urban Train Station, as defined under section 3(e) of Law 74-1965, as amended.

- Proximity to desirable amenities and avoidance of undesirable amenities.

- Preferred Project Characteristics
  - Redevelopment of an infill site or and expropriated site pursuant to a nuisance abatement process, or that is incorporated into a scattered-site project.

  - Substantial rehabilitation of a state designated historic property, federally designated historic place, or a contributing resource to a federally designated Historic District.

  - Adaptive reuse of an existing non-residential property.

  - Improvements aimed at facilitating the mobility of its residents and public transportation.

  - Development that strengthens and improves the neighborhood's general urban character.

  - Unit-mix preferring 2 or more bedroom units in non-elderly projects.

  - Provision of building amenities benefiting all units.

  - Capacity to effectively curb costs while complying with applicable standards, threshold requirements and minimum scoring.

  - Construction readiness

- Preferred Housing Needs Characteristics
  - Developments where **at least half** of the units in the project are targeted for very low-income households.

  - Developments that set-aside the applicable percentage of units for the special population categories identified in the Puerto Rico State Housing Plan (see Exhibit FF).

  - Preservation projects that seek to maintain the stock of affordable non-elderly rental housing.

- Extended term of affordability beyond the extended use period of thirty (30) years.

- Developments proposed to be converted to tenant homeownership.

- Inclusion in any waiting list of a public housing agency (**PHA**).

- Developer Characteristics
  - Previous successful participation developing and operating Tax Credit projects.

  - Adequate financial strength.

- Preferred Financing Characteristics
  - Leverage of capital funding from public sources other than those being managed by the Authority, PRDOH or Municipalities is encouraged.

  - Leverage of local government capital funding through cash contributions, land donated or discounted, site or off-site improvements, grants, or municipal construction tax abatement which is granted to the project and is not available under a local or state statute of general application.

  - Operational cost efficiency per project size.

  - Projects with financing from the Authority

- Supportive Services to Special Tenant Populations as defined in the Puerto Rico Housing State Plan (Exhibit FF)
  - Projects that sustain a level of funding for the provision of supportive services

REGARDLESS OF ANY PROVISION OF THIS 2022-QAP OR ANY DOCUMENT REFERENCED BY OR INCORPORATED IN THIS 2022-QAP, IT IS EACH APPLICANT'S SOLE RESPONSIBILITY TO DEMONSTRATE IN ITS APPLICATION THAT THE PROPOSED PROJECT SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS IN ALL RESPECTS. FAILURE BY ANY APPLICANT TO DEMOSTRATE THAT THE PROPOSED PROJECT SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS SHALL RESULT IN THE REJECTION OF THE APPLICATION AND THE PROJECT

5.4.2. Point Scoring

	Criterion	Score
I.	**Project Location**	**Up to 25 pts**
I.1.	**Location.** A project might be awarded **up to 19 points** if located within one of the following areas:	Up to 18 pts
I.1.1.	The project will be located in qualified disaster zone as per the FEMA-4473-DR declared on January 16, 2020, and amended on March 11, 2020. As per the DR, the following municipalities in Puerto Rico were affected by the Earthquakes of December 2019 and January 2020: **Adjuntas, Aguada, Arecibo, Barceloneta, Cabo Rojo, Ciales, Coamo, Corozal, Guánica, Guayanilla, Hormigueros, Jayuya, Juana Díaz, Lajas, Lares, Las Marías, Maricao, Mayagüez, Moca, Morovis, Naranjito, Orocovis, Peñuelas, Ponce, Sabana Grande, Salinas, San Germán, San Sebastián, Utuado, Villalba, and Yauco.**	10
	Documentation required: Site plan certified by the project's designer	
	Documentation required: Project Name & Address (Application page 1)	
I.1.2.	Urban area defined as: Central Urban Area in the Planning Board's *Reglamento de la Infraestructura en el Espacio Público*; or Urban Center designated by the Department of Transportation and Public Works or adopted under an Urban Center Area Plan; or a state-designated Historical Zone or federally-designated Historical District. See Annex Q of the Application Package for Reference Maps.	4
	Documentation required: Certification of location by a licensed land surveyor, physical address, and coordinates. Any project property straddling the limit of the designated urban area will be considered as located within.	
	The portion of a census tract outside an urban area, that has a rate of:	
	20% or less below poverty line.	3
	more than 20% and less than 30% below poverty line.	2
	more than 30% and less than 40% below poverty line.	1
	Documentation required: Certification of location by a licensed land surveyor. Any project property straddling the limit of the census tract will be considered as located within.	
	Documentation required: Census tract number; census tracts "% Below Poverty Line" as per the Federal Financial Institutions Examination Council's (FFIEC) 2015 Census Report. (Application, page 1).	
	The zone of influence around an Urban Train Station, as defined under section 3(e) of Law 74-1965, as amended.	1
	Documentation required: Certification of location by a licensed land surveyor, physical address, and coordinates. Any project property straddling the limit of the zone of influence will be considered as located within.	
I.2.	**Desirable Activities**	Up to 7 pts
I.2.1.	**General.** Projects located within 1,500 meters of the following amenities will be awarded a point each, **up to 5 points:**	Up to 5 Pts

	Criterion	Score
	Town square of an urban center.	1
	Public park (must incorporate a passive non-sports area).	1
	Traditional town market (*plaza de mercado*).	1
	Public or licensed elementary, middle, or high school.	1
	Shopping center (100,000 square feet or more of net commercial space; no other listed use is eligible if located within the shopping mall).	1
	Grocery store or supermarket with meat, produce and dairy.	1
	Hospital, diagnostic and treatment center (CDT) or federally qualified health center (see www.hrsa.gov).	1
	Pharmacy.	1
	Federal post office.	1
	Public transit terminal (bus, *carros públicos*).	1
	Documentation required: Map certified by a licensed land surveyor attesting to location of the facilities and the distance along a walkable public pathway or roadway between the project's main pedestrian entrance and the closest point of a town square or park facility or a public entrance to any target facility (in case of a shopping mall, to the commercial concourse or a big box-type facility entrance). If close to more than one installation belonging to the same type, only one point will be awarded. In case of a scattered-site project, distance will have to be certified from the nearest point of the closest building in the project.	
	Amenities must also be referenced by the market study.	
I.2.2.	**Targeted.** Projects targeted to the following special needs populations located within 500 meters of the following amenities will be awarded a point for each one, **up to 2 points.**	
	Single headed household:	
	Grocery store with WIC contract.	1
	Licensed or chartered childcare facility.	1
	Specific documentation required: name and physical address of facilities.	
	Specific documentation required: Evidence of inclusion in the WIC Vendor Registry published at wicpuertorico.com.	
	Specific documentation required: Childcare facility charter issued by ACUDEN.	
	Elderly household:	
	Physician or dental office.	1
	Civic center or voluntary work facility.	1
	Specific documentation required: Name and physical address of facilities.	
	Homeless (as defined under HEARTH Act):	
	WIOA training center.	1
	ASSMCA licensed public or private institution for the ambulatory treatment of mental disabilities, drug addiction or substance dependency.	1
	Specific documentation required: Name and physical address of facilities.	
	Specific documentation required: Authorization for WIOA training center issued by Local Workforce Development Area.	

	Criterion	Score
	Specific documentation required: Copy of license issued by ASSMCA.	
	Documentation required: Map certified by a licensed land surveyor attesting to location of facilities and distance along a walkable public pathway or a roadway between the project's main pedestrian entrance and the public entrance to any target facility. If close to more than one installation belonging to the same type, only one point will be awarded. In case of a scattered-site project, distance will have to be certified from the nearest point of the closest building in the project.	
	Amenities must also be referenced by the market study.	
I.3.	**Undesirable Activities.** Even if compliant with required environmental review, projects **will be discounted** one point for each one of the listed undesirable activities, up to a maximum of 5 points, if located:	**Up to Minus 5**
I.3.1.	Within one-eight mile of a:	
	Junkyard.	-1
	Landfill or dumpsite.	-1
	Industrial site.	-1
	Airport.	-1
	Wastewater treatment plant.	-1
1.3.2.	Adjoining a property which is or contains a:	
	Gas station.	-1
	Auto repair, paint, or tire repair shop.	-1
	Woodworking shop.	-1
	Unabated nuisance, as declared by a Municipality.	-1
	Documentation required: Map prepared by a licensed land surveyor certifying due diligence by identifying any of the listed nuisances within the established distance measured along the shortest straight line between the project lot and the nuisance property. In case of a scattered-site project, the distance will have to be certified from the closest point of the project's lot closest to the identified nuisance. **Every applicant must file the Map prepared by a licensed land surveyor certifying due diligence and indicating that none of the listed nuisances surround the project.**	
II.	**Project Characteristics**	**Up to 42 pts**
II.1.	**Infill or nuisance.** Projects will be awarded one point if proposed to develop an infill site or expropriated as part of a nuisance abatement process; and one additional point, **up to 4 points**, for each non-contiguous infill site or expropriated as part of a nuisance abatement process that is incorporated into a scattered-site project, located within an area with a radius no larger than one-quarter mile. An infill site shall be defined as a site that is bound on all except one of its sides, or two of its sides in case of a corner-type property, by adjoining built-up properties, and that has immediate access to existing public infrastructure of roads, water, sewer, and power.	Up to 4 pts
	Documentation required: Aerial photograph for each infill site showing properties.	

	Criterion	Score
	Documentation required: Cadastral numbers of properties (Application, page 1).	
	Documentation required: Nuisance abatement completed by Municipality supported by property deed and certification provided by Municipality.	
II.2.	**Historic property.** A substantial rehabilitation project site is located in or incorporates a state designated historic property, federally designated historic place, or a contributing resource to a federally designated Historic District will be awarded 3 points.	3
	Documentation required: Act citation or Planning Board's Resolution number and date in case of state designated properties; listing in the National Register of Historic Places in case of federally designated properties; or State Historic Preservation Office's (SHPO) certification of contributing resource.	
II.3.	**Adaptive reuse.** The residential use is an adaptive reuse of an existing non-residential property (refers to the process of reusing an old site or building for a purpose other than which it was built or designed for; does not apply if the existing structure will be demolished) will be awarded 2 points.	2
	Documentation required: Appraisal certifying present land use of the property.	
II.4.	**Site Characteristics.**	Up to 6 Pts
II.4.1.	**Mobility.** Projects (or the totality of the building sites, in the case of a scattered-site project), that incorporate improvements aimed at facilitating the mobility of its residents and promoting public transportation will be awarded **up to 3 points**, as follows:	Up to 3 pts
	The project provides an accessible and dedicated pedestrian network within the project site to connect the building(s) main pedestrian entrance(s) with egress points on all property sides adjoining a public street.	1
	Documentation required: Site plan certified by the project's designer identifying the proposed improvements.	
	Provided it is not required by a competent authority as an off-site improvement, the project includes the construction or rehabilitation of all non-conforming sidewalks in the perimeter of the project site adjoining a public roadway, in compliance with applicable accessibility standards and local codes.	1
	Documentation required: A separate plan drawing certified by the project's designer identifying any segments of the existing pedestrian pathways requiring accessibility improvements or in need of repair, and proposed improvements or new construction required to comply with applicable accessibility standards and local codes.	
	Documentation required: Approval from Municipality and competent transit authority, if applicable.	
	Documentation required: Letter from competent authority attesting the improvement is not a required off-site.	
	Provided it is not required by a competent authority as an off-site improvement, the project includes the construction or rehabilitation of transit pull-offs or public transit stops and required signage in any point of the roadway perimeter of the project site; or the provision or improvement of the sidewalks, crosswalks, refuge islands, and required signage to connect an off-site existing	1

	Criterion	Score
	public transit stop with the project site, in compliance with applicable accessibility standards and local codes.	
	Documentation required: A separate plan drawing certified by the project's designer identifying any segments of the existing pedestrian pathways requiring accessibility improvements or in need of repair, and proposed improvements or new construction required to comply with applicable accessibility standards and local codes.	
	Documentation required: Approval from Municipality and competent transit authority, if applicable.	
	Documentation required: Letter from competent authority attesting the improvement is not a required off-site.	
II.4.2.	**Urban Considerations.** A proposed development that strengthens and improves the neighborhood's general urban character may be awarded one point for each one of the following criteria, **up to 3 points**, as follows:	Up to 3 pts
	The project achieves the maximum allowable gross floor area, housing density and/or height under applicable code provisions.	1
	Documentation required: Table with applicable code provisions, maximum parameters and project parameters certified by the project's designer.	
	The parking spaces and service areas are screened from any public sidewalk or roadway by green hedges, fences, or walls with a void-to-solid area ratio of 1 or less.	1
	Documentation required: Site plan and elevation details certified by the project's designer identifying visual barriers and certifying compliance.	
	The building(s) main entrance(s) open(s) to the sidewalk of an adjoining public roadway.	1
	Documentation required: Site plan certified by the project's designer showing the location of the building's main entrance(s).	
II.5.	**Building Characteristics.**	Up to 12 Pts
II.5.1.	**Unit Mix.** Projects might earn **up to 2 points** for a unit mix preferring 2 or more bedrooms per unit as follows:	Up to 2 pts
	75% or more 2 or more bedrooms per unit	2
	50% or more 2 or more bedrooms per unit	1
	Documentation required: Floor plans certified by the project's designer.	
	Documentation required: Project pro-forma.	
II.5.3.	**Building Amenities.** Projects will be awarded one point, **up to 10 points**, for each one of the following building or unit features benefiting all units and, if applicable, not required by code or a permit authority:	Up to 10 pts
	Centrally located courtyard or patio with an area of no less than 30 sq. ft. per unit directly accessible from the main entrance(s) of the building(s).	1
	Community or meeting center with and area of no less than 15 sq. ft. per unit, with kitchen and public bathrooms.	1
	Open balcony in each unit with an area of no less than 24 sq. ft. (this area is part of the unit's Gross Living Area)	1
	Equipped exercise room(s) with an area or aggregate area of no less than 300 sq. ft.	1

	Criterion	Score
	Common laundry(ies) equipped with at least a washer-dryer pair per 15 units.	1
	Equipped playground outdoor area with visual control from the main entrance.	1
	Night shift security guard.	1
	Trash chutes (for mid- or high-rise facilities).	1
	Storm windows or shutters in all units.	1
	Units with 3 or more bedrooms have 2 bathrooms.	1
	Single family units provide Washer/Dryer hookups.	1
	Single family units provide Carport (*marquesina*).	1
	Ceiling fans for all bedrooms and living room areas.	1
	Documentation required: Floor plans and elevations certified by the project's designer showing designated spaces, equipment, and/or floor area.	
	Documentation required: Designer's Preliminary Opinion Letter (Annex J of the Application Package, model of certification), specifying compliance with applicable design criteria.	
II.6.	**Gap Financing Efficiency.** Projects that demonstrate the capacity to efficiently curb gap financing sources (CDBG-DR, HOME, HTF, FHLBNY, among others) relative total development costs. While complying with applicable standards, threshold requirements and minimum scoring, might earn **up to 10 points.** The efficiency will be measured by the following ratio: • Total Development Cost (**TDC**), • Minus Gap Financing requested (**GFR**), • Divided by the TDC, • Times 10 [number of max points that a project can receive for this criterion], rounded to four (4) decimal points.	Up to 10 pts
	The result of the above computation equals the points earned by the project **(TDC-GFR/TDC)*10=Points Earned**	
	Documentation required: Project Development Costs (Application, pages 11 and 12).	
	If the Gap Financing is provided by an entity, other than PRHFA, copies of the commitment letter/agreement for such financing)	
	Documentation required: Sources and Uses (Application-page 15).	
II.7.	**Construction Readiness. Up to 5 points** if requesting only Tax Credits, will be awarded if the project has one of the following:	Up to 5 Pts
	Unexpired Notification of Approval of the Construction Permit.	5
	Documentation required: Document issued by OGPe or Autonomous Municipality.	
	Urbanization permit or notification of approval of the urbanization permit, recommendations from infrastructure agencies, along with threshold environmental applicable review format and Section 106 compliance.	3
	Documentation required: Urbanization permit and infrastructure recommendations issued by OGPe, Autonomous Municipality or a *Profesional Autorizado,* as might apply.	

	Criterion	Score
	Documentation required: Applicable environmental review format (Phase I ESA, Compliance Determination with a Statutory Checklist format (for projects requiring funds or rental assistance, among other programs, Environmental Assessment) filing completed with OGPe and copy of any required notice related to the specific Federal law and authority review triggered under the Compliance Determination or the Notice of Finding of No Significant Impact under the Environmental Assessment.	
	Documentation required: Compliance document issued by SHPO (e.g., Technical Assistance letter issued by SHPO regarding potential effects upon historic properties).	
	Unexpired Recommendations from infrastructure agencies, along with threshold environmental applicable review format and Section 106 compliance	2
	Documentation required: Same as under previous criterion (except for copy of Urbanization Permit).	
III.	**Housing Needs Characteristics**	**Up to 12 Pts**
III.1.	**Income Targeting.** A project might earn **2 points** if at least 50% of the units in the project are targeted for households with incomes at 50% AMI.	2
	Documentation required: Proposed covenant provision for income targeting included in letter of intent to sign Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package).	
	Documentation required: Tenant selection procedures.	
III.2.	**Targeted Units.** A project will be awarded **up to 3 points** if it sets-aside the applicable percentage of units for any of the following special populations categories identified in the Puerto Rico State Housing Plan (Exhibit FF): elderly, single family, and young family sectors. Other special populations that will be awarded these points are persons with HIV/AIDS, veterans, and assisted living. As follows:	Up to 3 pts
	if requesting Tax Credits, at least 75% of total project units set aside for the targeted group during the length of the extended use period.	3
	if requesting Tax Credits, at least 50% of total project units set aside for the targeted group during the length of the extended use period.	2
	if requesting Tax Credits, at least 25% of total project units set aside for the targeted group during the length of the extended use period.	1
	Documentation required: Proposed covenant provision for income targeting included in letter of intent to sign Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package) and recording the targeted set-aside for the length of the affordability period.	
	Documentation required: If requesting CDGB-DR, Affirmative Fair Housing Marketing Plan (similar to Annex S of the 2022-QAP).	
	Documentation required: if requesting only Tax Credits, tenant selection procedures.	
III.3.	**Preservation.** To strengthen the Public Policy of Puerto Rico that seeks to maintain the stock of affordable rental housing a	Up to 3 Pts

	Criterion	Score
	substantial rehabilitation project that meets the threshold expenditure level established under IRC 42(c)(3)(A)(ii), might earn **up to 3 points** if:	
	The project curbs the risk of loss due to physical condition by replacing more than one major building component, which includes roof, bearing wall, floor, or foundation structures; plumbing system; electrical system; fire prevention and safety system; vertical transportation; or building envelope.	2
	Documentation required: Comprehensive capital needs assessment certified by an architect or civil engineer, duly licensed in Puerto Rico, including the identification of the condition of major building systems and the extent of required code compliance retrofitting.	
	The project curbs a significant risk for market conversion of the Tax Credit or otherwise rent-assisted property; or preserves a comparable level of existing project-based rental subsidies that will expire within two years of the application date.	1
	Documentation required: Housing market study must demonstrate the capacity of the project to compete for market rate tenants; copy of existing HAP, if applicable.	
III.4.	**Term.** If requesting Tax Credits, a project might earn **up to 2 points** for extending the term of affordability beyond the extended use period of thirty years for:	Up to 2 Pts
	At least 10 more years.	2
	At least 5 more years.	1
	Documentation required: Letter of intent to extend the initial 15-year period of compliance with the Tax Credits program's income and rent restriction requirements for a minimum of 15 additional years and sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package).	
	Documentation required: Project pro-forma.	
III.5.	**Homeownership Conversion.** If requesting Tax Credits, a project will be awarded 1 point if proposed to be converted to tenant homeownership (*right of first refusal*) for the residents after the compliance period expires.	1
	Documentation required: Letter of intent to sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package and reflecting a right of first refusal granted to the residents).	
	Documentation required: Syndication documents with conversion provisions.	
	Documentation required: Detailed plan with projections on maintenance, reserves, homeownership training, continued affordability, sales price calculation, lease and purchase agreements, and any other relevant information to demonstrate compliance with applicable regulations.	
III.6.	**Public Housing Agency (PHA) Waiting Lists.** If requesting Tax Credits, any project included in any waiting list of a PHA might earn 1 point.	1
	Documentation required: Referral agreement with the correspondent PHA to include the project in any listing of public housing opportunities where households with tenant-based	

	Criterion	Score
	subsidies are welcomed and where the project's owner or management agent agrees to actively seek referrals from the public housing authority to apply for units at the project. Also, Annex S, specifying in item 8 that "the owners will rent the units of the project to eligible families referred by the PHA from its waiting list or from their own waiting list if the PHA cannot provide adequate candidates, as determined and requested on the PHA's Administrative Plan".	
IV.	**Project Developer Characteristics**	**Up to 9 Pts**
IV.1.	**Experience.** Developer, General Partner, or Managing Partner can demonstrate successful record and full compliance participating in same capacity in the development of Tax Credits projects, or other low-income housing programs, in Puerto Rico. **Up to 6 points**, a point will be awarded for each documented project, **up to a maximum of 3 projects**, for each one of the following comparable characteristics:	Up to 6 Pts
	If proposing to use only LIHTC, project demonstrating utilization of program, or in combination with other programs; if proposing to use LIHTC in combination with any other federal or state program, project utilization of similar program mix subsidizing development costs, long-term operations or providing long-term rental assistance.	1-3
	Similar or deeper share of income targeted populations.	1-3
	Documentation required: Copy of HAP, IRS form 8609 for each project, as applicable.	
	Documentation required: Relevant project documentation to support experience in particular project.	
	Documentation required: Certification issued by the Authority's Audit and Compliance Office, or the Department's Housing Subsidies and Community Development Division, as applicable.	
IV.2.	**Financial Strength. Up to 3 points** might be awarded if developer, general partner, and manager partner have:	Up to 3 Pts
	Combined current liquid assets equivalent to the greater of one million dollars ($1,000,000) or 5% of the total development costs.	2
	Combined net worth equivalent to the greater of three million dollars ($3,000,000) or 15% of total development costs.	1
	Documentation required: Compiled or revised financial statements certified by a licensed accountant.	
	Documentation required: Sources and Uses (Application, page 15).	
V.	**Financing Characteristics**	**Up to 9 Pts**
V.1.	**Funds Leveraging.** The leveraging of capital funding from public grants or non-financing sources, other than those being managed by the Authority, PRDOH or the Municipalities is encouraged by awarding a project **up to 3 points** as follows:	Up to 2 Pts
	At least 15% of the total development cost covered by other sources of public funding.	2
	At least 10% of the total development cost covered by other sources of public funding.	1
	Documentation required: Sources and Uses (Application, page 15).	
	Documentation required: Binding commitment, agreement, or award documentation.	

	Criterion	Score
V.2.	**Local Government Funding. Up to 3 points** are awarded to projects that leverage local government capital funding through cash contributions, land donated or discounted, site or off-site improvements, grants, or a municipal construction tax abatement which is granted to the project and is not available under a local or state statute of general application, with a total value of:	Up to 3 Pts
	At least 5% of the total development cost.	3
	At least 3% of the total development cost.	2
	At least 1% of the total development cost.	1
	Documentation required: Sources and Uses (Application-page 15).	
	Documentation required: Binding commitment, agreement, or award documentation.	
	Document required: If applicable Ordinance, Resolution or Bid supporting property transaction.	
	Document required: Evidence of site control by Owner: earnest money agreement, option or closing statement for land and/or buildings, title, deed, or leasehold agreement, or equivalent for Municipal land transaction.	
	Document required: If applicable, documentation supporting construction tax abatement (Ordinance and/or Resolution).	
V.3.	**Local Government Land/Building. Up to 3 points.** Projects which have bought, or optioned to buy, land for redevelopment owned by PRHFA, PRDOH, PRPHA, Municipality or other instrumentality of the Government of Puerto Rico will be awarded 2 points.	2
	Documentation required: Copy of long-term lease agreement, deed, or letter of commitment.	
	Document required: If applicable Ordinance, Resolution or Bid supporting property transaction.	
	Document required: Evidence of site control by Owner: earnest money agreement, option or closing statement for land and/or buildings, title, deed, or leasehold agreement, or equivalent for Municipal land transaction.	
V.4.	Projects applying for financing with the Authority will be awarded **up to 2 points.**	Up to 2 pts
	Interim and Permanent Financing	2
	Interim or Permanent Financing	1
	Documentation required: PRHFA loan application	
V.5.	**Operating Expenses.** A project might be awarded 1 point if it meets the corresponding operating expense requirement on a per-unit per-annum (**PUPA**) basis in the first year:	1 Pt
	For developments with 85 units or less, a PUPA between $3,400 and $4,000.	1
	For developments with 86 to 150 units, a PUPA between $3,300 and $3,900.	1
	For developments with more than 151 units, a PUPA between $3,200 and $3,800.	1
	Documentation required: Certification provided by the management agent.	
VI.	**Supportive Services**	**Up to 3 Pts**

	Criterion	Score
VI.1.	**Supportive Services.** To advance the Public Policy of Puerto Rico to increase the provision supporting services by integrating agencies that provide these services and coordinate their actions to support permanent housing for populations with special needs, any project might earn **up to 3 points** for sustaining a funding allocation for the provision of supportive services of the type: 1) authorized under a federally subsidized program and that could be funded with resources obtained directly as a grantee in competitive or demonstrative grants, or as a recipient of rental or operational assistance (i.e. CoC, VASH, GPD, SSVF, Veteran Per-Diem, CDBG, 811, 202, HOPWA, FSS Program, etc.), or indirectly as sub-grantee or provider, or by contracting the services of a sub-grantee or provider, of any state or municipally managed program (i.e.: ADFAN's CSGB, VRA's Independent Living, ASSMCA's Homeless and Chronic Mental Health, ADFAN's Adult and Person with Disabilities Services, Medicaid's Home and Community-Based Service Waivers, among other); or 2) contracted for a certified Assisted Living facility authorized under Act 244-2003, as follows:	
	Up to 5% of the project's annual operational cost for the length of the compliance period of affordability.	3
	Up to 3% of the project's annual operational cost for the length of the compliance period of affordability.	2
	Up to 1% of the project's annual operational cost for the length of the compliance period of affordability.	1
	Documentation required: copy of supportive services commitment letter, binding commitment, award letter, contract, or agreement.	
	Documentation required: Project pro-forma.	
	Documentation required: Letter of intent to sign the Land Use Restrictive Covenant Agreement (in substantially the same form as Annex K of the Application Package) and specifying operational budget commitment for supportive services.	
	Total Score	100
	Minimum Score	**30**
VII.	**Tie-Breaking Criteria, listed in order of importance**	
VII.1.	Will favor the project that is the readiest to proceed.	
VII.2.	Will favor the project that is located in a qualified disaster zone as per the Taxpayer Certainty and Disaster Tax Relief Act of 2020 and IRS Notice 2021-45.	
VII.3.	Will favor the project with lowest total development costs per unit.	
VII.4.	Will favor the project that is located in a Municipality with the longer elapsed period without Tax Credit allocation.	

5.5. Tax Credit Allocation

5.5.1. Description

Following the Point Ranking calculation, projects will be ranked in descending order, most points to least points. The Authority anticipates reserving Tax Credits for those projects scoring highest under the Project Selection Criteria up to the amount the law and this 2022-QAP. The Authority anticipates reserving Tax Credits for projects in the list, starting with the highest scoring project, and continuing down the rankings, reserving Tax Credits, and subtracting them from the cumulative balance of available Tax Credit for that year, until that balance reaches zero.

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

If there are insufficient Nonprofit eligible projects to meet the Nonprofit Set-Aside, the unallocated Nonprofit Set-Aside credits cannot be allocated to other eligible projects and will become unused carryforward in next years' Authority Tax Credits ceiling, as provided in Section 4.3.1However, if there are insufficient eligible projects to meet the Public Housing Set-Aside, any unallocated PHA set-aside Tax Credits may be used for other eligible projects in the general pool.

However, the credit allocation process may vary in order to further the public policy set forth in this 2022-QAP, and/or the Action Plan. Specifically, notwithstanding the point ranking system, nor other provisions set forth in this 2022-QAP, the Authority reserves the right and shall have the power to allocate credits and other administered funds to a project, or waive provisions irrespective of its point ranking, if such intended allocation is: 1) in compliance with Section 42 of the Code; 2) in furtherance of the allocation priorities, Set-Asides, and preferences stated herein; 3) determined to be in the interest of citizens of Puerto Rico.

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

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

5.5.2. Allocation of Other Authority Administered Funds

It is possible that other programs and sources of funds the Authority manages may choose to rely on the Point Ranking System set forth in this

2022-QAP, as amended from time to time, to select projects to receive fund allocations.

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

5.5.3. Notification of Tax Credit

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

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

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

5.5.4. Review

5.5.4.1. An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may submit a written petition for reconsideration to the Executive Director of the Authority within ten (10) calendar days after the notification by mail of the letter denying the application. A copy of the petition for reconsideration must be filed with the Financing and Tax Credit Department.

5.5.4.2. The Authority shall consider the petition for reconsideration within ten (10) calendar days of filing. If the Authority decides upon the merits of the petition for reconsideration, the term to petition for judicial review shall commence as of the date of the notification by mail of the final determination. If the Authority takes no action with respect to the petition for reconsideration within ten (10) calendar days of filing, the petition for reconsideration shall be deemed to

have been denied outright and the term for judicial review shall commence to run as of that date.

5.5.4.3. An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may present a petition for review before the Court of Appeals within ten (10) calendar days after the notification by mail of the letter denying the application, or within ten (10) calendar days after the expiration of the term provided to the Authority to consider the petition for reconsideration.

5.5.4.4. The filing of a petition for reconsideration or a petition for judicial review shall not stay the Authority's allocation of Tax Credits to successful applicants. If an applicant who petitions for review obtains a final order or judicial decree that modifies the decision of the Authority, so that the application is worthy of a reservation of Tax Credits, the Authority shall provide the applicant with a reservation of Tax Credits from the next available allocation round, whether in the current year or a subsequent year.

5.5.4.5. The reconsideration and judicial review procedure provided herein shall be the exclusive proceeding to review the merits of a decision of the Authority regarding the reservation or allocation of Tax Credits pursuant to this 2022-QAP.

5.5.4.6. Other regulations regarding formal or informal adjudicatory proceedings before the Authority are not applicable to Tax Credit reservation and allocation decisions.

6. Issuance of Tax Credits

6.1. Reservation of Tax Credits Beyond Actual Allocation Year

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

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

To take into account the unique facts and circumstances and concerns described above, and in order to assist with meeting the housing needs and goals of the Public Policy of Puerto Rico, while balancing the Authority's position with respect to any single large allocation of Tax Credits, the Authority may award a binding

commitment in one year to make a Carryover Allocation for certain percentages of Tax Credits in following years in certain circumstances (**Binding Commitment**).

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

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

Depending on the circumstances and in the Authority's sole discretion, Projects with Binding Commitments may be required to file an application in the year the Tax Credits are committed and go through the Basic Threshold Qualification Process and comply with at least the Minimum Requirement of the Point Ranking System. In addition, the owner will not pay the Application Fee but rather a Processing Fee of .50% of the annual Tax Credit requested will be included with the application.

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

6.1.1. Tax Credit dollar amount will be determined at:

6.1.1.1. Initial /Reservation of Tax Credits

6.1.1.2. Carryover Allocation

A development with a Binding Commitment, but which will not be placed in service by December 31, may be eligible for a carryover allocation (**Carryover Allocation**).

To sign the Carryover Allocation, the owner must provide:

- any changes in the circumstances of the project (budget, design, and/or permitting); and

- Owner's Certification, disclosing any federal, state, or local subsidies that the applicant has received, or expects to receive, for the development and operation of the project.

6.1.1.3. Place-in-Service, see section 6.3 for details.

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

6.2. Additional Tax Credits

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

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

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

6.3. Placed-in-Service

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

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

6.3.1. Certificate of Occupancy (*Permiso de Uso*).

6.3.2. Independent CPA Final Cost Certification of project development (Annex M)

6.3.3. Designer's Certification of Completion of Construction (Annex N).

6.3.4. Updated operating budget and 30-year pro forma cash flows.

6.3.5. Owner's Certification of any federal, state, or local subsidies received, or expected to be received, to develop and operate the project.

6.3.6. Authority's independent consultant physical inspection and cost certification review.

6.3.7. Any other document the Authority may determine as necessary.

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

6.4. Changes of Actual Development Costs or Other Circumstances

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

6.5. Calendar Requirements

6.5.1. Carryover Allocation Requirements

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

6.5.1.1. the carryover allocation calendar year if Carryover Allocation is made before July 1st; or

6.5.1.2. year after the date of the Carryover Allocation Agreement, if made after June 30th.

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

6.6. Placed-in-Service Date

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

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

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

7. Other Procedural Requirements

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

8. Time Frame

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

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

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

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

8.1. Schedule of Application for 2022 Cycle

Event	Date
2022-QAP Draft Available for Public Comments	**May 9, 2022**
2022-QAP Public Hearing	**May 19, 2022**
2022-QAP Written Comments Deadline	**May 23, 2022**
Applications Opening Date (after Governor's Approval and NOFA Release)	**November 18, 2022**
Advanced Section 106 Review - Submission Deadline	**December 16, 2022**
Applications Closing Date	**January 17, 2022**

Event	Date
Ranking & Reservation	**TBD**
Closing of Carryover Agreement	**TBD**
10% Cost Certification	The 10 % cost certification must be filed by the close of the date that is twelve (12) months after the date the Carryover was made.

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

9. Projects Financed with Tax-Exempt Obligations

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

These projects will be subject to the evaluation of housing priorities, minimum thresholds discussed in Section 5.1 above, and the fees determined in Section 11. They will not be subject to the Tax Credit allocation process but must score the Point Ranking System minimum requirement of 30 points. Applicants must include a letter from the lender stating the tax-exempt status of the obligations issued to finance the project and a certification from its tax attorney or CPA certifying that this requirement is met. If the Authority is the Lender, the letter will not be required.

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

- Application Criteria: Tax-exempt obligation financed projects must comply with the Basic Threshold Qualification Requirements, the Point Ranking System minimum requirement of 30 points, and other requirements for allocation under this 2022-QAP pursuant to Section 42(h)(4) of the Code;

- Issuance Criteria: Tax-exempt obligations financed projects must also meet the issuance criteria adopted by the Puerto Rico Fiscal Agency and Financial Advisory Authority (**AAFAF**, in Spanish) as the Authority's fiscal agent in order to assure compliance in the issuance of obligations by the Authority, including but not limited to compliance with the Issuance Volume Cap approved for the Authority;

- Credit Limitation: 4% Credits available to tax-exempt obligations financed projects are also limited to an amount necessary for the financial feasibility of the project, as set forth in Section 42(m)(2)(A) of the Code; and

- Debt Sizing: In accordance with the Section 42(m)(2)(A) of the Code, all tax-exempt obligation projects shall include proposed financing terms that deploy 4% Credits effectively and minimally relative to other proposed sources of funds in a proposed development as determined by the Authority in its discretion.

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

After the development is completed, Placed-in- Service, the Owner must request the issuance of the project's IRS-8609 following the indications of Section 6.3 of this 2022-QAP

10. Compliance, Fees, and Penalties

10.1. Procedure for Notification to IRS of Noncompliance

Federal legislation requires that each 2022-QAP include a procedure that the Authority will follow in notifying the IRS of noncompliance with the program. The Authority will require owners to furnish annual certifications of qualified low-income tenants, including tenant income and rents charged, the number of qualifying low-income units, as well as any other information pertinent to determine compliance.

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

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

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

In addition, the Authority has implemented an asset management oversight during the compliance period **(first 15 years)** to contribute to the success of the program. Among the procedures put into practice, the Authority will assess risk of noncompliance and evaluate financial performance.

To facilitate these functions, management agents will periodically provide projects' trial balances and agree to maintain the standard HUD Chart of Accounts in their accounting systems (Annex B). Finally, the Authority will require annual audited financial statements. To assist the auditors in reporting on audits of housing projects, the Authority will prefer them prepared in accordance with HUD Consolidated Audit Guide (**HUD Guide**) and at a minimum include an Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Financial Statements Performed in Accordance with Government Auditing Standards. Excerpts from the HUD Guide is included in Annex B for reference.

11. Fees

The application package costs $100 and includes the 2022-QAP, Compliance Monitoring Plan, Procedural Steps, and Instructions. The Authority will also charge the following fees:

11.1. Application Related Fees

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

11.1.2. Tax Credit-Application Fee: Two and a half percent (2.5%) of annual amount requested application fee. This is a **non-transferable fee,** which shall be submitted along with the application. Nonprofit participants might pay 1% at submission of application and the other 1% within 60 days of the initial submission. The application fee will be waived, up to the amount previously paid, to previous participants that are re-applying for the same project that did not receive a LIHTC reservation during NOFA-2020. At its sole discretion, the Authority might consider the **return of half of the fee amount** if the project is not awarded a reservation of credits.

11.1.3. HOME/HTF Program Application Fees:

11.1.3.1. CHDO's: $0.00
11.1.3.2. ½ of 1% of requested amount, with a minimum payment of two thousand and five hundred dollars ($2,500) and a maximum of ten thousand dollars ($10,000). This fee is non-refundable and non-transferable

11.1.4. Projects with Binding Commitments will be charged a processing fee of 0.50% of the annual Tax Credit requested.

11.1.5. Projects using tax-exempt obligations to acquire 4% Credits:

11.1.5.1. **Origination issuer fee:** 25 basis points of the amount of debt issued (**upfront**); and

11.1.5.2. **Annual issuer fee:** 12.5 basis points of outstanding tax-exempt obligations (**in arrears**).

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

11.2. Allocating Fee

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

11.3. Monitoring/Asset Management Fee

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

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

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

12. Penalties and Other Fees

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

In any litigation, arbitration, or other proceeding arising from, as a result of or pursuant to this 2022-QAP and/or the resulting Tax Credit allocation cycle, selection process or award determination under any participating program, or any other proceeding arising from or as a result of or pursuant to any noncompliance during the construction and/or operation of a project, when the Authority appears as a party, intervener or *amicus curiae*, **the sponsor and/or owner and/or developer shall reimburse the Authority** reasonable attorney's fees, costs, and expenses incurred, regardless of which party initiated the litigation, arbitration, or other proceeding.

13. Recordkeeping and Retention

For each qualified low-income building in the project, owners must maintain records that provide specific information for each year of the compliance period. The failure to maintain these records or otherwise comply with requirements in the PRHFA Compliance Monitoring Plan- Low Income Tax Credit Program July 2016 **(Plan)** may result in the issuance of IRS Form 8823, and the eventual recapture of Tax Credits. All applicants are urged to review the Plan and require that project managers have a thorough knowledge of these requirements under Section 42 of the Code and the Plan.

14. Compliance and Delegation

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

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

15. Scope and Future Amendments

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

The federal laws governing the Tax Credit Program are subject to change. Final interpretations of certain rules and regulations governing the Program may not yet have been issued by the U.S. Department of Treasury. In the event that any portion of this 2022-QAP should conflict with the Code, amendments made thereto, or federal regulations promulgated thereunder, the federal regulations shall take precedence. If any portion of this 2022-QAP is invalid due to such conflict, the validity of the remaining portions will in no way be impacted, affected, or prejudiced. The Authority reserves the right to resolve conflicts, inconsistencies, or ambiguities, if any, in this 2022-QAP or which may arise in administering, operating, or managing the allocation of LIHTC.

The Authority reserves the power to administer, operate and manage Tax Credits allocation in all situations and circumstances, both foreseen and unforeseen in the Plan. No member, executive, officer, employee, or agent of the Authority, including

other agencies of the Commonwealth of Puerto Rico, or any official of the Commonwealth, including the Governor thereof, shall be personally liable respecting any matter or matters arising out of, or in relation to, the Tax Credits.

Executive Director
Puerto Rico Housing Finance Authority

I, Pedro R. Pierluisi Urrutia, Governor of Puerto Rico, hereby approve the Low-income Housing Tax Credit Allocation Plan 2022 for the Government of Puerto Rico adopted by Puerto Rico Housing Finance Authority, a subsidiary of the Government Development Bank for Puerto Rico, as the State Housing Credit Authority under the provisions of Section 42 of the Internal Revenue Code of 1986, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Government of Puerto Rico, in San Juan, Puerto Rico, this 15 day of november, 2022.

GOVERNOR