

**NOTICE OF REGULAR BOARD MEETING OF  
THE GUAM HOUSING AND URBAN RENEWAL AUTHORITY**

**The Guam Housing and Urban Renewal Authority (“GHURA”) will hold its Regular Meeting of the GHURA Board of Commissioners on Thursday, April 08, 2021 at 12:00 PM. This Board Meeting is open to the public via teleconference.**

**If you would like to join the meeting, please contact Audrey Aguon at 475-1378 by Tuesday, April 06, 2021 for more information.**

**For special accommodations, contact Katherine Taitano at 475-1322 or TTY 472-3701.**



**BOARD OF COMMISSIONERS  
REGULAR SCHEDULED MEETING  
12:00 P.M., April 08, 2021  
GHURA's Main Office (via Zoom)  
1<sup>st</sup> floor, Conference Room, Sinajana  
AGENDA**

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**I. ROLL CALL**

**II. BOARD MEETING PUBLIC ANNOUNCEMENTS**

1<sup>st</sup> Printing – Thursday, April 01, 2021

2<sup>nd</sup> Printing – Tuesday, April 06, 2021

**III. APPROVAL OF PREVIOUS BOARD MINUTES** – February 26, 2021  
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**IV. NEW BUSINESS**

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| <br><b>2. Resolution No. FY2021-011</b> .....   | <br><b>3 - 5</b> |
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**V. CORRESPONDENCE AND REPORTS**

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## **VI. GENERAL DISCUSSION / ANNOUNCEMENTS**

1. Next proposed scheduled Board Meeting: Friday, May 7<sup>th</sup> @ 12:00 p.m.

## **VII. ADJOURNMENT**



## SPORTS

# Mulkey's testing idea is just irresponsible



**Nancy Armour**  
Columnist  
USA TODAY

SAN ANTONIO – Someone needs to remind Baylor coach Kim Mulkey that the COVID-19 pandemic isn't over.

Mulkey said Monday night that the NCAA should stop COVID testing at both the men's and women's tournaments ahead of the Final Four so no player runs the risk of testing positive and being ruled out.

"I don't think my words will matter," Mulkey said after Baylor lost to UConn 69-67 in the Elite Eight. "But ... they need to dump the COVID testing. Wouldn't it be a shame to keep COVID testing and



**Baylor coach Kim Mulkey calls out to her team against UConn on Monday.**  
KIRBY LEE/USA TODAY SPORTS

you've got kids that end up test positive or something and they don't get to play in a Final Four?

"So you need to just forget the COVID test and let the four teams that are playing in each Final Four go battle it out."

To suggest that a basketball game, even one in the Final Four or for the national ti-

tle, is more important than a player or coach's health is as troubling as it is ignorant. Mulkey, of all people, should know better, having had COVID herself in January.

COVID has already killed more than 550,000 in the United States alone over the last year and cases, after plateauing for several weeks, are rising again. Medical experts, of which Mulkey is not one, are warning of the dangers of new, more contagious variants, urging people to remain vigilant about wearing masks, socially distancing and, yes, testing, until more of the country can be vaccinated. That the men's and women's tournaments are being played in states that have loosened restrictions only heightens the risks. Texas has lifted its mask mandate, and while individual businesses

in San Antonio can still require them, many do not.

The Rivercenter mall, attached to the hotel where NCAA Tournament teams are staying, has no signs requiring or even recommending that visitors wear masks, and few people do. Ditto for the Tower of Americas, a tourist attraction down the street from the Alamodome.

The River Walk is packed with tourists, and social distancing is non-existent. Many hotels are still requiring masks to be worn indoors, but that is trusting guests to comply, and anecdotal evidence shows that is hit or miss.

We're all tired of COVID and the restrictions necessary to prevent its spread, and it's getting harder and harder to be vigilant as vaccinations become more com-

mon and a return to normal is in sight. But for Mulkey to suggest that it should no longer be taken seriously is mind-boggling.

It's true that young people are at lower risk for severe cases of the disease, but to say they will be fine! just fine! is irresponsible. Or perhaps Mulkey has forgotten about Vanderbilt guard Demi Washington, who was forced to sit out this season after developing myocarditis following a bout with COVID.

And it's not only the players who Mulkey is willing to put at risk for the sake of a game. Roger Ayers, the referee who was sent home from the NCAA men's tournament after testing positive for COVID, finally felt well enough Monday to take a walk outside, two weeks after getting sick.

## Payne latest player to join Florida's exodus

**Mark Long**  
ASSOCIATED PRESS

GAINESVILLE, Fla. – Florida's rebuilding project continues to grow.

Forward Omar Payne entered the transfer portal Tuesday and became the fifth player to leave coach Mike White's program since the end of the season.

The 6-foot-10 Payne joined shooting guard Noah Locke, backup point guard Ques Glover and reserve forward Osayi Osifo in looking to play elsewhere next season. Star point guard and leading scorer Tre Mann entered the NBA draft with plans of hiring an agent, meaning he has no intention of returning to school for his junior season.

Payne, a sophomore from Kissimmee, averaged 3.8 points and 3.2 rebounds while playing close to 16 minutes a game this season. He was suspended for Florida's opening-round win against Virginia Tech in the NCAA Tournament after getting ejected for elbowing Tennes-



**Florida forward Omar Payne, seen blocking a shot against Alabama on Jan. 5, is entering the transfer portal.**  
MARVIN GENTRY/  
USA TODAY SPORTS

see's John Fulkerson in the quarterfinals of the Southeastern Conference Tournament.

The Gators shouldn't have much trouble replacing any of the four transfers. Locke was a slow-footed, one-dimensional shooter. Payne, Glover and Osifo were backups who rarely made the Gators better when they were on the floor. But there's no indication Florida is done dealing with departures. Guards

Scottie Lewis and Niels Lane along with forward Samson Ruzhentsev are still weighing their options, according to the team's official website.

Forward Colin Castleton, guard Tyree Appleby, forward Anthony Duruji and center Jason Jitoboh, meanwhile, told White during end-of-season exit interviews that they intend to return.

It's unclear what the future holds for talented swingman Keyontae Johnson, who has not been cleared to practice or play since collapsing on the court during a game in December. The cause of his collapse and his current condition have not been released publicly.

The Gators will be active in the burgeoning transfer portal to rebuild their roster, especially since White signed just one prospect in the 2021 class: guard Kowacic Reeves. Still, it's a troubling trend for White, who has yet to graduate a single player he signed since replacing Billy Donovan in 2015.



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**Guam Board of Social Work Virtual Regular Board Meeting**

**Thursday, April 08, 2021 11:00 AM**

<https://global.gotomeeting.com/join/914333093>

**Access Code:** 914-333-093

**Please join the meeting from your computer, tablet or smartphone.**

For more information, please contact the Board office at 735-7404/10 thru 12. Persons needing telecommunication device for the Hearing/Speech Impaired (TDD) may contact 475-8339.



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**CAMACHO CALVO LAW GROUP LLC**  
ZACHARY G. DAMIAN  
zdamian@camachocalvo.law  
356 E. Marine Corps Drive, Suite 201  
Hagåtña, Guam 96910  
Tel No. 671.472.6813  
Fax No. 671.477.4375

**Attorneys for Petitioner MARIA SABLAN HARRIS**

**IN THE SUPERIOR COURT OF GUAM**

**IN THE MATTER OF THE ESTATE**

**OF ANTONIA RUPLEY SABLAN, Decedent.**

**Probate Case NO. PR0155-20**

**NOTICE OF HEARING PETITION**

**THIS NOTICE IS REQUIRED BY LAW. YOU ARE NOT REQUIRED TO APPEAR IN COURT UNLESS YOU DESIRE.**

1. NOTICE IS HEREBY GIVEN that Maria Sablan Harris has filed a Petition for Letters of Administration.

2. The continued hearing on this Petition will be heard by online remote appearance on **April 13, 2021 at 11:00am.**

3. To attend or to participate in the hearing, go to <https://guamcourts-org.zoom.us/join> and enter Meeting ID: 752 425 5848; Password: JARB. For connectivity issues, you may also contact Kristina Blaz at 475-3250 or by email at [kblaz@guamcourts.org](mailto:kblaz@guamcourts.org).

Dated: **MAR 10, 2021**

/s/ Yvonne L. Cruz  
Deputy Clerk,  
Superior Court of Guam

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**JON J. P. FERNANDEZ**  
Superintendent of Education

**CARMEN T. CHARFAUROS**  
Supply Management Administrator

## REQUEST FOR PROPOSAL GDOE RFP 005-2021

**DEVELOPMENT AND IMPLEMENTATION OF THE STATE PERSONNEL DEVELOPMENT PLAN FOR PROJECT HITA PARA MO'NA – INSTITUTE OF HIGHER EDUCATION**

**SUBMISSION DATE:** Monday, April 26, 2021 at 2:00 p.m. CHST

### GDOE RFP 006-2021

**DEVELOPMENT AND IMPLEMENTATION OF THE STATE PERSONNEL DEVELOPMENT PLAN FOR PROJECT HITA PARA MO'NA – NATIONAL EXPERTS IN SPECIAL EDUCATION LEADERSHIP**

**SUBMISSION DATE:** Monday, April 26, 2021 at 2:00 p.m. CHST

**Note:** It is solely the Offeror's responsibility to review the website on a daily basis for the issuance of Amendments/Clarifications for any possible changes to the RFP.

RFP packages are available for download on the GDOE website at [www.gdoe.net/District/Department/12-Office-of-Supply-Management](http://www.gdoe.net/District/Department/12-Office-of-Supply-Management).

A hard copy may also be picked up at the GDOE Office of Supply Management at **501 Mariner Avenue, Suite 116 Barrigada, Guam 96913-1608**

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/s/ CARMEN T. CHARFAUROS  
SUPPLY MANAGEMENT ADMINISTRATOR  
For: JON J. P. FERNANDEZ  
SUPERINTENDENT OF EDUCATION



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**CARMEN T. CHARFAUROS**  
Supply Management Administrator

## INVITATION FOR BID

**GDOE IFB 024-2021**

**OUTRIGHT PURCHASE OF 22-PASSENGER MINI BUS FOR THE DIVISION OF SPECIAL EDUCATION**

**SUBMISSION DATE:** Tuesday, April 27, 2020 at 2:00 p.m. ChST

**Note:** It is solely the Bidder's responsibility to review the website on a daily basis for the issuance of Amendments/Clarifications for any possible changes to the IFB.

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/s/ CARMEN T. CHARFAUROS  
SUPPLY MANAGEMENT ADMINISTRATOR  
For: JON J. P. FERNANDEZ  
SUPERINTENDENT OF EDUCATION





**BOARD OF COMMISSIONERS  
REGULAR SCHEDULED MEETING  
12:00 P.M., April 08, 2021  
GHURA's Main Office (via Zoom)  
1<sup>st</sup> floor, Conference Room, Sinajana  
AGENDA**

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**I. ROLL CALL**

After notice was duly given, pursuant to the Open Government Law of Guam and the Bylaws of the Authority, the Board of Commissioners' regularly scheduled board meeting was called to order at **12:01 P.M., Friday, April 8, 2021** at the GHURA Sinajana Main Office, 1st floor Conference room, by Chairman Flores. He stated that 4 members of the Board of Commissioners were present, indicating a quorum and that the meeting would proceed as scheduled. He also stated that Vice Chairwoman Guzman would be attending the meeting shortly.

<p><b>PRESENT: (VIA ZOOM VIDEO CONFERENCE)</b>  Sabino Flores, <b>Chairman</b>  George Pereda, <b>Commissioner</b>  Frank Ishizaki, <b>Commissioner</b>  Anisia Delia, <b>Commissioner</b></p> <p><b>ABSENT:</b>  Monica Guzman, <b>Vice Chairwoman</b></p> <p><b>LEGAL COUNSEL:</b>  Anthony Perez, Esq.</p>	<p><b>MANAGEMENT &amp; STAFF:</b>  Ray Topasna, <b>Executive Director</b>  Elizabeth Napoli, <b>Deputy Director</b>  Audrey Aguon, <b>Special Assistant</b>  Kimberly Bersamin, <b>HR Administrator</b>  Katherine Taitano, <b>CPD/RP&amp;E Manager</b>  Andrew Manglona, <b>A/E Planner</b>  Patrick Bamba, <b>AMP3 Supervisor</b></p> <p><b>PUBLIC: (VIA ZOOM VIDEO CONFERENCE)</b>  Katie Pierce (<b>Portfolio Management Specialist, Honolulu Field Office HUD</b>)  Amanda Jones (<b>Student</b>)  Haidee Eugenio (<b>The Post</b>)  Gerry Partido (<b>PNC</b>)  Jesse Wu (<b>Director Honolulu Field Office HUD</b>)  Mark Chandler (<b>CPD Director Honolulu Field Office HUD</b>)</p>
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**II. BOARD MEETING PUBLIC ANNOUNCEMENTS**

1<sup>st</sup> Printing – Thursday, April 01, 2021

2<sup>nd</sup> Printing – Tuesday, April 06, 2021

**ACKNOWLEDGED.** The Chairman indicated that the announcement was posted on both dates in the Pacific Daily News.



### **III. APPROVAL OF PREVIOUS BOARD MINUTES**

[042/21] Chairman Flores made a motion to approve the minutes of the previous board meetings of February 26, 2021 and March 04, 2021 as corrected.

Commissioner Delia seconded the motion. With no objections by the other board members, the motion was passed.

### **IV. NEW BUSINESS**

#### **1. [043/21] Resolution No. FY2021-010**

**Resolution requesting an additional Housing Special Position in the Public Housing – AMP#3.**

Director Topasna stated:

- Management is requesting that the board approve an additional Housing Specialist position for AMP3.
- An additional Housing Specialist position is needed to relieve an excessive workload which include: tenant move ins, tenant documentation filing, preparing and delivering tenant renewal certifications, responding to tenant complaints, counseling tenants regarding lease violations, preparing issuance of lease violations, and conducting unit inspections.
- Management is hopeful that the addition of the second Housing Specialist position would improve on file keeping integrity and fewer audit findings.
- The Classification rate for the position is LG3, Step 1 (A), \$32,856 per annum.
- Deputy Director Napoli added that AMP3 has the budget for an additional Housing Specialist position.

Commissioner Ishizaki inquired about staffing total versus total budget. Director Topasna stated that GHURA has a total of 104 employees with an \$81,000,000 operating budget, however, with low income housing tax credits and the oversight of Section 108 loan guarantee to build the Charter school, GHURA's approximate budget was at \$160,000,000. He added that Personnel costs is about 6% of GHURA's entire operations.

Chairman Flores acknowledged the presence of Mr. Jesse Wu, from the Honolulu HUD office.

There were no further questions.

**[044/21] Commissioner Pereda moved to approve Resolution FY2021-010**



requesting an additional Housing Special Position for Public Housing AMP#3. Also that the classification rate for that position is established at pay range LG3, Step 1 (A), \$32,856 per annum in conformance with the Civil Service Commission's Wage structure and is entitled to the benefits provided by GHURA. Commissioner Delia seconded the motion. With no objections by the other board members, the motion was passed.

**2. [045/21] Resolution No. FY2021-011**

A resolution of the Board of Commissioners of the Guam Housing and Urban Renewal Authority authorizing participation in the U.S. Department of Housing and Urban Development Section 108 Loan Guarantee Program; authorizing a loan from the Guam Housing and Urban Renewal Authority to the learning institute in the principal amount of twelve million dollars (\$12,000,000) for the purpose of financing the acquisition, construction and equipping of a new educational campus for the iLEARN Academy Charter School; and authorizing the Executive Director of the Guam Housing and Urban Renewal Authority to take all actions necessary to accomplish the undertakings in connection, therewith, including the execution and delivery of all documents contemplated thereby.

Director Topasna deferred to Ms. Katherine Taitano, Chief Planner, to discuss Resolution No. FY2021-011.

Ms. Taitano stated:

- Resolution FY2021-011 is to authorize GHURA's participation in Section 108, formally with specific tasks identified.
- Resolution FY2021-011 authorizes the loan and for the Executive Director to execute agreements necessary to accomplish the task.
- Resolution FY2021-11 has been composed and reviewed by legal counsel.
- Director Topasna requested that the board familiarize itself specifically with Sections 1-6 on page 4 of 42.
- Attorney Perez added that GHURA, HUD and TLI anticipate closing on the Section 108 loan by April 22<sup>nd</sup> and advised the board of the flurry of documents that will require signatures from GHURA. He indicated that what this process proposes to do, in addition to approving GHURA's participation in the program, is to have the Executive Director sign off on all documents when necessary.
- Director Topasna added that the goal is to complete the construction phase of this project by the beginning of SY2022.

Chairman Flores inquired about whether the designs and permitting process were complete. Ms. Taitano confirmed this. Ms. Taitano added that this is the first time that GHURA has participated in a Section 108 loan, but has had excellent communications with HUD Honolulu and HUD DC office regarding the CDBG Section 108. Ms. Taitano also confirmed that the project is \$30,000,000. Attorney Perez stated that all documents that need to be signed will be vetted through HUD DC and HUD Honolulu. There will be multiple layers of review of documents that GHURA will enter into.



Commissioner Ishizaki indicated that the HUD and GHURA liability is \$12M for the loan guarantee, but inquired on the total cost of the project. Ms. Taitano stated that the total cost was between \$32M and \$34M. He inquired about whether GHURA is comfortable with iLearn Academy's financing. Attorney Perez indicated that repayment of the loan is through legislative appropriation. Ms. Taitano also added that iLearn Academy is being conservative in their revenue projections, which is the annual per child limit. The iLearn Academy Charter School will have an expanded campus to handle more students; K-5 Stem oriented education programming. She also indicated that should the loan not be paid, the guarantee would be initiated by the CDBG 108 group. Director Topasna requested that Ms. Taitano elaborate on what the process is if the loan is not repaid. Ms. Taitano stated that should the loan not be repaid, an allocation of CDBG funds is pledged to ensure that repayment is made on a regular basis, but GHURA will also ensure that the building is used purposefully and meeting a national objective for HUD, which is to benefit a low mod population. There were no further discussions.

**[046/21] Chairman Flores made a motion to approve Resolution No. FY2021-011 as previously recited and as listed in everyone's packaged agenda. Commissioner Ishizaki seconded the motion. With no objections by the other board members, the motion was passed.**

## **V. CORRESPONDENCE AND REPORTS**

### **1. [047/21] A/E Manager's Update**

Mr. Andrew Manglona reported on behalf of Mr. Sonny Perez. He stated the following updates:

- Sinajana Arts Center- wall pour was on April 6, 2021. Completion status is at 40%. Scheduled completion is 10/2021.
- Guma Famalaoan- Groundbreaking was on March 30, 2021. Inland Builders to install construction barrier within the project limits on April 12, 2021.
- Umatac Baseball Field-commencement of work on the architectural fixtures in the restrooms, and the installation of electrical panels for side lightings. Completion status @ 72%.
- Inarajan Basketball Court- Permitting is under review with DPW.
- MTM- Bid documents to be advertised within the month.
- Guma Trankilidat- 8 Units awarded.
- MOD Projects- 11 Units awarded. Processing additional Bid Packet for 8 more units. Ongoing active MOD projects is approximately 30+ units.
- HOME Projects- Processing five properties for Affordable Homes Construction Project bids.
- UPCOMING PROJECTS:
  1. New Community Center for AMP1
  2. Environment Controls for Drainage for AMP4-scope of work is completed.

Director Topasna commended Mr. Perez and his team for all their hard work despite the challenges brought on by the impact of COVID19. He stated that



GHURA continues to do its best to meet HUD's timeliness schedule.

Ms. Taitano added that the HOME Investment Partnership Grant Program, that Mr. Perez and his team are processing will provide income eligible households the opportunity to purchase their first home.

There were no further discussions.

**2. [048/21] 2021 LIHTC QAP/Application - DRAFT (for review)**

Chairman Flores stated that LIHTC is a low income Housing Tax Credit Qualification Application Plan and an Application draft for the Commissioners to review. Director Topasna indicated that GHURA has been able to build over a thousand units through the low income tax credits program. He then deferred the presentation to Ms. Katherine Taitano.

Ms. Taitano stated the following:

- Before the board is the Draft Qualified Allocation Plan (QAP) for the 2021 issuance of the Low Income Tax Credit Program Competition.
- Included is the overview and summary of proposed changes made from the last allocation plan.
- A public comment period will be completed for the coming allocation.
- Normal processes included running the competition every 2 years.
- QAP will come back with comments which will be presented to the board.
- Upon approval from the board, it will then be opened to the competition.
- The criteria set before the board is what companies will be evaluated against.

Commissioner Ishizaki inquired about the length of time available for public comment. Ms. Taitano stated that during the comment period, the public is informed and interested parties make their inquiries. The process normally lasts 30 days.

There were no further discussions.

Chairman Flores thanked Ms. Taitano for her presentation and indicated that the board would review the draft.

**VI. GENERAL DISCUSSION / ANNOUNCEMENTS**

- 1. [049/21] Next proposed scheduled Board Meeting: Friday, May 7<sup>th</sup> @ 12:00 p.m.**

Chairman Flores announced the next proposed scheduled meeting of May 7, 2021. Due to the lack of a quorum for the next proposed meeting date, Chairman Flores stated that a date would be determined and confirmed later.



He also informed the board that a confirmation hearing was held for a new Resident Commissioner. Director Topasna added that a vacancy on the board, still remains and that the Governor may appoint someone shortly.

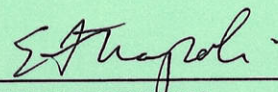
Director Topasna announced that GHURA received clean opinions on both its Financial Statements and on Compliance. He added that the last time GHURA received a clean opinion on its audit was in 2012. He commended GHURA's hard working team and the board for providing the employees with unyielding support.

Chairman Flores extended his kudos to the hard-working GHURA employees for not only working towards a clean audit, but also in their timeliness.

## **VII. ADJOURNMENT**

[050/21] Chairman Flores motioned to adjourn the meeting and Commissioner Delia seconded the motion. There were no objections to the motion. The motion passed and the meeting adjourned at 12:42PM.

**SEAL**

*for*   
\_\_\_\_\_  
**RAY S. TOPASNA**  
**Board Secretary / Executive Director**



**GUAM HOUSING AND URBAN RENEWAL AUTHORITY  
BOARD OF COMMISSIONERS**

**RESOLUTION NO. FY2021-010**

**MOVED BY: GEORGE F. PEREDA                      SECONDED BY: ANISIA S. DELIA**

**RESOLUTION REQUESTING AN ADDITIONAL HOUSING SPECIALIST POSITION IN THE  
PUBLIC HOUSING - AMP#3**

**WHEREAS,** pursuant to Section 5104, Title 12 of the Guam Code Annotated, the Board of Commissioners of the Guam Housing and Urban Renewal Authority (GHURA), is given the right and responsibility to govern and control the operations of the Authority, and to establish policies for its day-to-day operations, and generally to undertake its responsibilities as supreme authority for the Agency; and

**WHEREAS,** the Board of Commissioners of GHURA is empowered to employ officers, technical experts, agents and employees, permanent and temporary, as it may deem necessary to carry out the responsibilities of the Authority and is subject to the New Uniform Position Classification and Salary Administration Plan of the Authority; and

**WHEREAS,** management at PH-AMP3 is requesting the Board of Commissioners to approve an additional Housing Specialist position (classified limited term); and

**WHEREAS,** the additional Housing Specialist position is needed to:

- 1. Relieve an excessive workload for AMP3's Housing Specialist,** who is responsible for:
  - Tenant move-ins (including lease signing).
  - Ensuring the tenant file documentation is complete and complies with HUD/Auditor's standards.
  - Preparing, packaging, and delivery of Tenant's Annual Recertification letters and/or adjustments.
  - Responding to, and/or investigating tenant's complaints.
  - Corresponding and consulting with other agencies and NGOs regarding tenants (i.e., DOE - Head Start Program, Child Protective Services, Guam Behavioral Health and Wellness Center, Guam Police Department, and/or respective Mayor's offices).
  - Escorting maintenance workers to units for service calls with difficult or aggressive tenants.
  - Responding to units for emergencies and/or life-threatening matters such as, violence, fire, indecent exposure, criminal activity, child abandonment and other related issues.
  - Providing guidance and instruction to the Interviewer Clerk, Maintenance Workers, and Data Control Clerk.



- Counseling tenants regarding lease violations and/or behavior of household members.
- Preparing and issuance of written citations where applicable.
- Responding to inquiries from Upper Management and Division Supervisors regarding current tenants and/or applicants.
- Conducting unit inspections for Annual Recertifications, re-inspections for housekeeping violations, and Special inspections for reports of unauthorized persons in unit, anonymous reports of criminal, suspicious, and/or fraudulent activity.

**2. Result in fewer audit findings with a goal to improve file integrity.**

**WHEREAS,** the Board of Commissioners wishes to support Executive Management and AMP3's need for the additional Housing Specialist position; and

**WHEREAS,** the Board of Commissioners now wishes to approve a new Housing Specialist position at PH-AMP3;

**WHEREAS,** the funding for this position is available under AMP3 Funds; and now therefore be it

**RESOLVED,** that the classification rate for said position is established at **Pay Range "LG3", Step 1 (A), \$32,856.00 per annum** in conformance with the Civil Service Commission's wage structure and that they are entitled to the benefits provided by **GHURA** to its employees, which include retirement benefits, group insurance (Health and Life), worker's compensation, annual leave and sick leave benefits.

**IN A SCHEDULED BOARD MEETING, SINAJANA, GUAM – APRIL 08, 2021**

**PASSED BY THE FOLLOWING VOTES:**

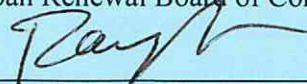
**AYES:** Sabino Flores, George Pereda, Frank Ishizaki, Anisia Delia

**NAYES:** NONE

**ABSENT:** Monica Guzman

**ABSTAINED:** NONE

I hereby certify that the foregoing is a full, true and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Board of Commissioners on **April 08, 2021.**



**RAY S. TOPASNA**

Secretary/Executive Director

(S E A L)



**GUAM HOUSING AND URBAN RENEWAL AUTHORITY  
BOARD OF COMMISSIONERS  
RESOLUTION NO. FY2021-011**

**Moved By: SABINO P. FLORES**

**Seconded By: FRANK T. ISHIZAKI**

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A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE GUAM HOUSING AND URBAN RENEWAL AUTHORITY AUTHORIZING PARTICIPATION IN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 108 LOAN GUARANTEE PROGRAM; AUTHORIZING A LOAN FROM THE GUAM HOUSING AND URBAN RENEWAL AUTHORITY TO THE LEARNING INSTITUTE IN THE PRINCIPAL AMOUNT OF TWELVE MILLION DOLLARS (\$12,000,000) FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A NEW EDUCATIONAL CAMPUS FOR THE iLEARN ACADEMY CHARTER SCHOOL; AND AUTHORIZING THE EXECUTIVE DIRECTOR OF THE GUAM HOUSING AND URBAN RENEWAL AUTHORITY TO TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH THE UNDERTAKINGS IN CONNECTION, THEREWITH, INCLUDING THE EXECUTION AND DELIVERY OF ALL DOCUMENTS CONTEMPLATED THEREBY.

- WHEREAS,** the Guam Housing and Urban Renewal Authority ("GHURA") has applied to the United States Department of Housing and Urban Development ("HUD") for Federal assistance in funding the construction of a new educational campus which will be owned by The Learning Institute, a Guam nonprofit corporation ("TLI"), which will be leased to the iLearn Academy Charter School, for use as a technology-centric K-5 charter school in Dededo, Guam (the "Project"); and
- WHEREAS,** HUD has determined that a portion of the costs of the Project are eligible for financial assistance pursuant to Section 108 of Title 1 of the Housing and Community Development Act of 1974, as amended, (the "Act"); and
- WHEREAS,** pursuant to the Act, GHURA and the Government of Guam will enter into a Contract for Loan Guarantee Assistance under Section 108 of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §5308 (the "Contract") with the Secretary of HUD; and
- WHEREAS,** pursuant to the Contract, HUD will loan \$12,000,000 to GHURA (the "Section 108 Loan") from which all of proceeds will be loaned to TLI (the "TLI Loan") for the purpose of acquiring, constructing and equipping the Project; and
- WHEREAS,** the terms and conditions of the TLI Loan are set forth in a Loan Agreement between GHURA and TLI (the "TLI Loan Agreement; and
- WHEREAS,** HUD requires GHURA to select a qualified financial institution or institutions to act as a depository of funds and custodian of documents required under the Contract, and GHURA has initially selected the Bank of Guam (the "Depository"); and
- WHEREAS,** it is necessary in connection with the Section 108 Loan and the TLI Loan to authorize certain documents and actions in connection with the financing of the Project, including but not limited to forms of the following documents: (together with the Contract and the TLI Agreement collectively referred to as the "Financing Documents");



<u>Document</u>	<u>Other Parties</u>
Variable/Fixed Rate Note (the "HUD Note")	None
Deposit Account Control Agreement	HUD, Depository
Section 108 Guaranteed Loan Custodial Agreement	Depository
Letter Agreement For Section 108 Loan Guarantee Program Deposit Account	Depository
Letter Agreement For Section 108 Loan Guarantee Program Investment Account	Depository
Construction Monitoring and Disbursement Agreement	TLI, Bank of Guam
Subrecipient Agreement	Government of Guam
Subrecipient Agreement	TLI
Intercreditor Agreement	Core Tech Capital

**WHEREAS,** pursuant to 12GCA §5101 *et seq.*, (the "Authorizing Legislation") GHURA is empowered and authorized to borrow money, and accept other forms of financial assistance from or through the facilities or guarantees of the Federal Government, and may accept, and shall comply with such conditions as the Federal Government may impose upon or attach to its financial aid; and

**WHEREAS,** the Board of Commissioners of GHURA desire to adopt this Resolution authorizing GHURA to enter into the Section 108 Loan and the TLI Loan and execute and deliver the Financing Documents and other documents necessary to complete these transactions; and

**RESOLVED,** by the Board of Commissioners of the Guam Housing and Urban Renewal Authority, as follows:

**Section 1.** Pursuant to the Authorizing Legislation, the Board of Commissioners of GHURA hereby finds and determines that the Project to be financed with the proceeds of the Section 108 Loan and the TLI Loan is consistent with a program of the Federal Government for which GHURA is authorized and empowered to participate.

**Section 2.** The issuance of the HUD Note is hereby authorized and approved.

**Section 3.** To secure repayment of the HUD Note and other charges as may be authorized by the Contract, GHURA is hereby authorized to pledge as security for repayment of the HUD Note (i) all allocations or grants which have been made or for which the Government of Guam or GHURA may become eligible under Section 106 of the Act, as well as any grants which are or may become available to GHURA pursuant to Section 108(q) of the Act; (ii) Program income, as defined at 24 CFR 570.500(a) (or any successor regulation), directly generated from the use of the Guaranteed Loan Funds, as defined in the Contract; (iii) other security as described in paragraph 15, *et seq.* of the Contract; (iv) all proceeds (including insurance



and condemnation proceeds) from any of the foregoing; and (v) any and all rights, titles, and interests of GHURA in and to the accounts established pursuant to paragraphs 1 and 6 of the Contract and further described in the Deposit Account Control Agreement entered into by GHURA, the Depository, and the Secretary of HUD incorporated into the Contract, and all funds or investments in the accounts established pursuant to paragraphs 1 and 6 of the Contract.


- Section 4.** To prescribe the terms and conditions upon which the HUD Note is to be executed, authenticated, delivered, issued, accepted, held, and secured, the Executive Director is hereby authorized and directed to execute the Contract, Financing Documents, and other documents necessary to complete the loan transactions discussed herein, subject to his final review and approval.
- Section 5.** The Executive Director is hereby authorized and directed to execute all documents necessary to open and maintain depository accounts and custodial arrangements with the Depository as may be required by the Contract.
- Section 6.** The Executive Director, for and on behalf of GHURA, is individually hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Contract, HUD Note and TLI Loan Agreement; the execution and delivery of such other papers and documents necessary to effect the issuance of the HUD Note; and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Resolution. The Executive Director is hereby further authorized and directed, for and on behalf of GHURA, to execute all papers, documents, certificates, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

**IN A SCHEDULED BOARD MEETING, SINAJANA, GUAM – APRIL 08, 2021  
PASSED BY THE FOLLOWING VOTES:**

<b>AYES:</b>	<b>Sabino Flores, George Pereda, Frank Ishizaki, Anisia Delia</b>
<b>NAYS:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>Monica Guzman</b>
<b>ABSTAINED:</b>	<b>NONE</b>

We hereby certify that the foregoing is a full, true and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Authority Board of Commissioners on **April 08, 2021**.

(SEAL)

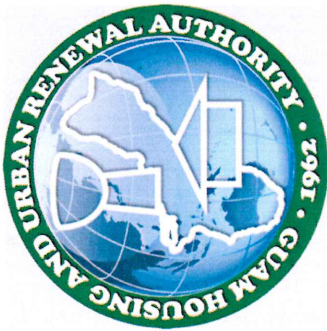


**RAY S. TOPASNA**  
Secretary/Executive Director



**SABINO P. FLORES**  
Board Chairman





# BOARD OF COMMISSIONERS

*April 8, 2021*

*A/E Report*



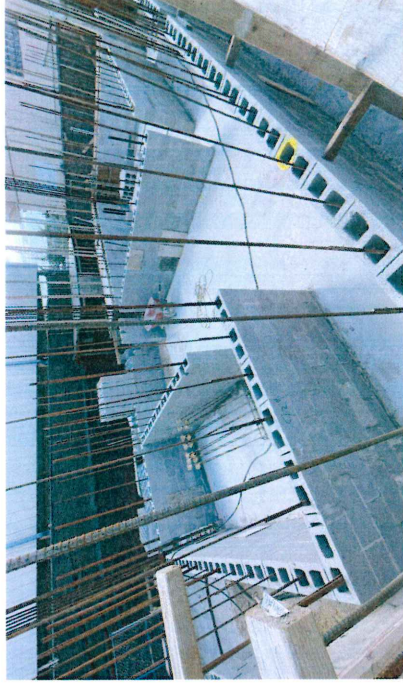
2/12/21



Sinajana Arts Center: Scheduled completion 10/2021 3/23/21

Completion Status @ 40%





Sinajana Arts Center  
Wall pour April 6, 2021





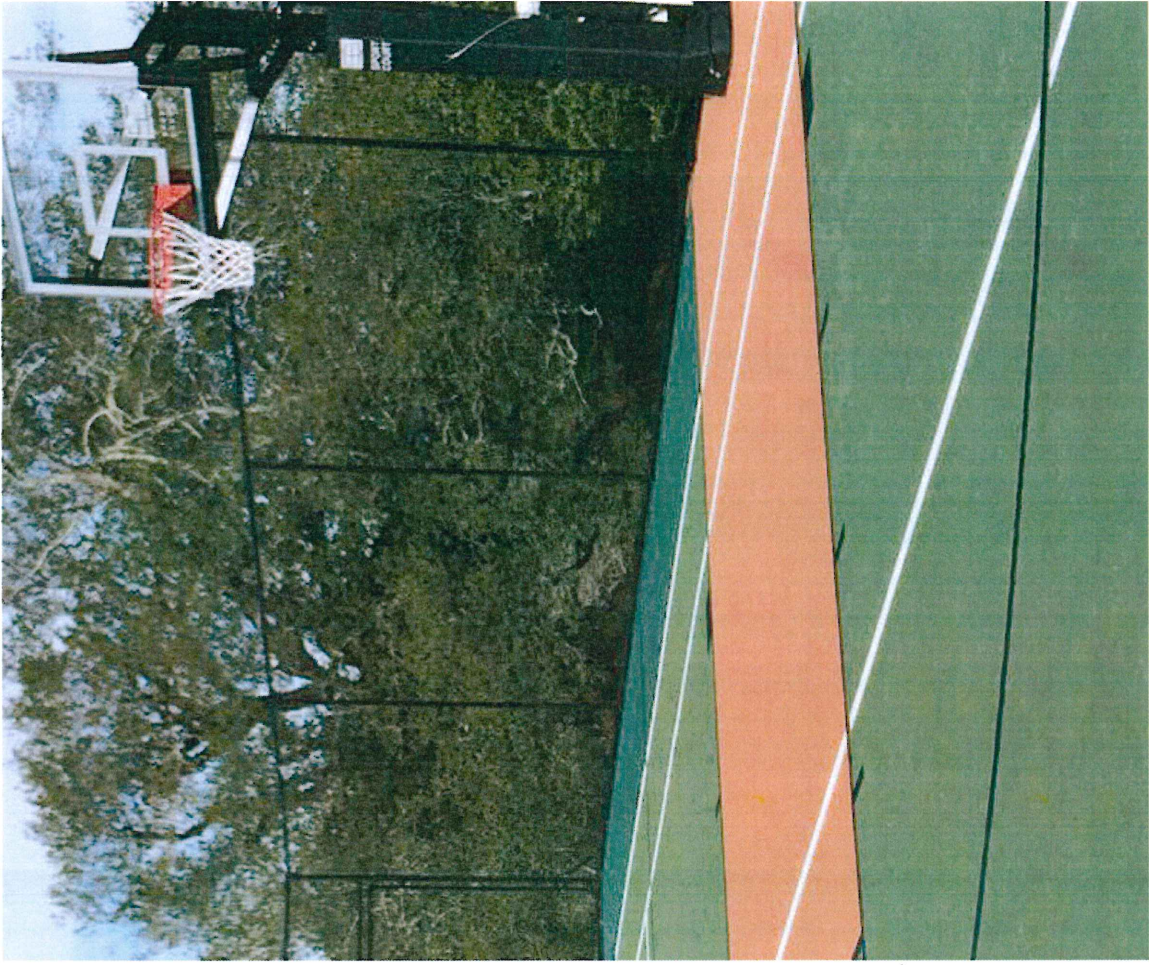
*Groundbreaking March 30, 2021*  
*Construction Barrier Installation April 12, 2021*





*Umatac Baseball Field - InfraTech (Contractor); lighting installation April 12, 2021  
Completion Status@ 72%*





Basketball Courts			
Project No	Title	Status	Next Step
1	Inarajan	Permit	Build 05/2021
2	MTM	Bid Docs	Advertise mid-April





# RENOVATIONS AND

## CIPSAwarded Bids:

- Eight Units (8) Guma Trankilidat
- Eleven Units (11) Various AMPs
- Public Bids:
  - Processing Additional Requests (8 units)
  - Door Replacements @ GHURA 100
  - Lead Based Paint Abatement (April 30)
- Ongoing MODS: (30+ active units)
- A/E Processing Five Properties for Affordable Homes Construction Projects
- Upcoming AMP Projects:
  - New Community Centers – AMP 1
  - Environmental Controls – AMP 4



**Briefing Paper for Board of Commissioners**  
**Low Income Tax Credit Program**  
**26 March 2021**

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**Overview**

The Low-Income Housing Tax Credit (LIHTC) Program is a program established by the IRS under the Tax Reform Act of 1986. It serves as a tax incentive program for private developers to construct or rehabilitate affordable rental housing for low-income households. GHURA is Guam's designated State Housing Finance Agency (SHFA), the agency to administer the LIHTC program and administer tax credit allocations. While the LIHTC Program has been in existence since 1986, GHURA's first participation was in 2005. Well over 1,000 affordable rental units have been placed in service to this day.

**LIHTC Process**

The annual competitive application process starts with the **Qualified Allocation Plan (QAP)** which serves (2) two purposes:

- (1) Sets the criteria to evaluate and allocate tax credits to a project(s) which best meet the rental housing needs of Guam (housing for special needs groups, project locations, energy efficiency, affordability periods, et al.) *Points are assigned to each criterion and each applicant requests points while providing justification, thus making it a competitive process.*
- (2) Establishes the procedure to monitor for compliance with the provisions of the LIHTC Program.

From time-to-time, GHURA has identified certain Special Criteria included in prior LIHTC QAP/Application cycles:

- 1 to 2 Bedroom Units for individuals/smaller families
- 3 to 4 Bedroom Units for larger families
- Affordable units for Elderly

The draft QAP is presented to the Board for their review prior to the start of a public comment period. Once comments have been received and considered, a final QAP & Application are issued. Interested developers are given a period of months to submit their applications. After submission, applications are evaluated by a panel consisting of both GHURA personnel and public, private or nonprofit representatives of entities who have interests or work with low-income populations. (Past panels have included representatives of Habitat for Humanity, the University of Guam, Government economists, statisticians, and agency senior staff.) When evaluations conclude, a report is prepared for the Board of Commissioners for selection and approval of projects proposed. Lastly, GHURA management and staff complete the necessary steps to execute the award of LIHTC credits before the end of the year.

**2021 LIHTC Application**

Tax Credit Allocation:	\$6,660,957.00
Points to be awarded:	120 points
Minimum Score for award:	84 points



## 2021 LIHTC Summary of Changes

Below are the proposed changes for the 2021 LIHTC QAP. All changes are subject to approval by the GHURA Board of Commissioners and may advise on any recommendations.

Change No. 1	Description
Page Number/Heading/Paragraph	p.3/Introduction/4 <sup>th</sup> paragraph
Proposed Change/Recommendation	Insert following: <i>Although forward commitments of future allocation funds are permitted, those commitments are subject to approval from the GHURA Board of Commissioners and are not guaranteed.</i>
Reason for change	The change would clarify that only Board-approved applicants at the time of request for forward commitment or future allocation of LIHTC credits would be entertained for funding. The dedication of future awards or the forward commitment of funds are not guaranteed for any applicant. Commitment of additional funds to an applicant after an initial allocation is subject to approval of the GHURA Board of Commissioners.
GHURA Board of Commissioners Recommendations/Notes:	

Change No. 2	Description
Page Number/Heading/Paragraph	p.5/A. 9% Credits Set Aside:
Proposed Change/Recommendation	Inserted details for the following: <i>a.) Construction of a New Building</i> <i>b.) Rehabilitation of an Existing Building used for housing</i> <i>c.) Acquisition/Rehabilitation of Existing Building not used for housing</i> <i>d.)GHURA shall limit awards of 9% (volume cap) LIHTC</i>
Reason for change	In prior QAP's, New Construction/Rehabilitation headings were very general with no explanation. These proposed details reference what the Section 42 of the IRC states in regards to those items and also adds the provision of (d) limiting the 9% volume cap to no more than one (1) project per calendar year with IRC reference.
GHURA Board of Commissioners Recommendations/Notes:	



Change No. 3	Description
Page Number/Heading/Paragraph	p.6/B. Income Averaging Set Aside
Proposed Change/Recommendation	Inserted the following: <i>The Consolidated Appropriations of 2018 established a new income averaging set aside for LIHTC developments. (Please refer to Appendix 1 for income average guidelines.)</i>
Reason for change	As mandated by the IRS in 2018, a new set-aside must be included in future QAP's. GHURA is conforming to the IRS requirement, so this set-aside will be implemented, however, more details will be included in the latter part of the QAP.
GHURA Board of Commissioners Recommendations/Notes:	_____ _____ _____

Change No. 4	Description
Page Number/Heading/Paragraph	pp.6-7/Public Housing Waitlist/Homeless Services Programs
Proposed Change/Recommendation	Inserted the following: <i>Applicant shall certify that all low-income units will be made available to people on the waiting list for public housing and/or acceptable homeless service programs. The following shall be submitted with the application:</i> a) <i>Copy of the letter submitted to the local public housing authority which administers the public housing waiting list that units will be available.</i> b) <i>Copy of the letter submitted to the Guam Homeless Coalition that provides services and programs to the homeless notifying them that units will be available.</i>
Reason for change	In prior QAP's, applicants were to notify only the Public Housing Waitlist authority that LIHTC units are made available. The new change would require that the awarded LIHTC project also reach out to those administering homeless services programs as LIHTC units and prior projects are meant for the general public who qualify by income and in the past have not reached out to the homeless services programs. This change will ensure that homeless services programs will be notified of any LIHTC units available for their clients that may qualify.
GHURA Board of Commissioners Recommendations/Notes:	_____ _____ _____



Change No. 5	Description
Page Number/Heading/Paragraph	p.7/Minimum Affordability Period
Proposed Change/Recommendation	Inserted the following: <i>a) Applicants requesting an award of 9% LIHTC must commit to a minimum affordability period of 45 years</i>
Reason for change	In prior QAP's, Minimum Affordability Period was not a participation element. By ensuring that this item falls within the participation element of the QAP, this will allow for projects to create affordable units for a longer period and to ensure the quality of the units is maintained under LIHTC compliance monitoring standards. Some of Guam's earlier LIHTC projects have a minimum affordability period of 15 years and other jurisdictions have incorporated this into their plans.
GHURA Board of Commissioners Recommendations/Notes:	    

Change No. 6	Description
Page Number/Heading/Paragraph	pp.11-12/Criteria 7/Project location and housing needs characteristics
Proposed Change/Recommendation	Additional (4) points are given for the following the following: <i>Employment opportunities, schools, medical facilities located in the immediate vicinity of the project (2 Points)</i> <i>Recreational facilities, shopping facilities, located in the immediate vicinity of the project (2 Points)</i>
Reason for change	By adding these housing needs characteristics, this will ensure that the project is not only affordable but that they are within areas that are appealing and accessible for the residents. The lack of reliable transportation may be an issue for some LMI families so having these facilities and opportunities nearby does offer some convenience.
GHURA Board of Commissioners Recommendations/Notes:	    

Change No. 7	Description
Page Number/Heading/Paragraph	pp.17/Criteria 17/Public Housing Waiting List/Homeless Services Programs
Proposed Change/Recommendation	The addition is to include the Homeless Services Programs
Reason for change	Homeless services programs were not notified of LIHTC units in the past. So this item was added to ensure that those that administer homeless service programs are aware that LIHTC units will be made available to their clients.



GHURA Board of Commissioners Recommendations/Notes:	

Change No. 8	Description
Page Number/Heading/Paragraph	p.20/Good Faith Deposit
Proposed Change/Recommendation	Included the following: <i>Failure to meet any of the elections made in the scoring criteria, participation elements, or requests for additional credits at the time of application may result in the retention of the entire good faith deposit by GHURA.</i>
Reason for change	GHURA assesses a Good Faith Deposit to ensure that specific items are met including the Selection Criteria within the projects application; however, there are instances wherein a request for additional credits comes during the application process often leading to a change in the budget, developer fee, and/or proforma documentation. To ensure the project meets the specifics mentioned in their initial application, this provision is added so they may not deviate from their original intent for the project.
GHURA Board of Commissioners Recommendations/Notes:	

Change No. 9	Description
Page Number/Heading/Paragraph	p.22/Set Aside
Proposed Change/Recommendation	Included the following: <i>3. Election of income averaging for new LIHTC developments where LIHTC Qualified Units (Units) may serve households earning up to 80% of the Area Median Income (AMI) so long as the average income limit of the Qualified Units is 60% or less of AMI. Designated income levels for Qualified Units may be set at 10% increments between 20% and 80% of AMI. See Appendix 1 for further guidance.</i>
Reason for change	IRS mandates all LIHTC proposals after 2018 are aware of the new set-aside that may be utilized and to include it in all application processes. <b>(Please note Appendix 1 on p.31 goes into detail for the Income Average Set Aside)</b>
GHURA Board of Commissioners Recommendations/Notes:	



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# Guam 2021 Low-Income Housing Tax Credit Qualified Allocation Plan

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Guam Housing and Urban Renewal Authority

**Pending Approval by GHURA BOC**

GHURA developed this Qualified Allocation Plan (QAP) which sets forth (1) the criteria to evaluate and allocate tax credits to projects which best meet the housing needs of Guam, and (2) the procedure to monitor for compliance with the provisions of the Low-Income Housing Tax Credit Program.



# DRAFT

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**GOVERNMENT OF GUAM**  
**LOW-INCOME HOUSING TAX CREDIT PROGRAM**  
**2021 QUALIFIED ALLOCATION PLAN**

**I. Introduction**

The Low-Income Housing Tax Credit (LIHTC) Program, created by the Tax Reform Act of 1986, is intended to encourage the construction or rehabilitation of low-income rental units. The regulations which govern this Program are contained in Section 42 of the Internal Revenue Code (the “Code” or IRC). The LIHTC Program provides Federal tax credits to qualified project owners who agree to maintain all or a portion of a project's units for low-income families. The Guam Housing and Urban Renewal Authority (GHURA) has been designated as the agency responsible for the administration of the LIHTC Program for Guam.

GHURA developed this Qualified Allocation Plan (QAP) which sets forth (1) the criteria to evaluate and allocate tax credits to projects which best meet the housing needs of Guam, and (2) the procedure to monitor for compliance with the provisions of the LIHTC Program.

**This allocation plan shall be effective for LIHTC reservations and awards in  
calendar year 2021. The QAP is subject to amendment by the GHURA  
Board of Commissioners.**

The QAP will utilize a point system to rank projects based upon the evaluation criteria established. The ranking of projects, along with all other relevant data, will determine the priorities to be followed by GHURA in allocating tax credits to the projects under consideration. The scores derived from the point system will be a component of the overall evaluation, and not the sole determining factor for the awarding of tax credits. In addition to the scores derived, GHURA will review all relevant data required in the application. GHURA retains the option to approve or reject applications based on GHURA’s assessment of Guam’s housing needs during the period covered by the QAP. Projects selected under this QAP shall be evaluated as to the minimum amount of tax credits required in order to make the project feasible.

Guam’s 2021 tax credit allocation total is \$6,660,957 (\$3,217,500 issued on November 18, 2019 under Rev. Proc. 2019-44 for the 2020 allocation period, \$3,245,625 issued on October 26, 2020 under Rev. Proc. 2020-45 for the 2021 allocation period plus remaining tax credits from 2019 allocation period in the amount of \$197,832). Applicants seeking housing credit allocations in excess of the 2021 total must demonstrate the financial capability to complete the project or show that the project can be scaled to fit the available 2021 funding. Although forward commitments of future allocation funds are permitted, those commitments are subject to approval by the GHURA Board of Commissioners and are not guaranteed. GHURA supports and encourages applicants to consider the merits of mixed financing in pursuit of sustainable affordable development.

## II. Application Process

Applications for the LIHTC are available at GHURA's website at [www.ghura.org](http://www.ghura.org) or by submitting a written request to GHURA at the address shown below.

Guam Housing and Urban Renewal Authority (GHURA)  
c/o Executive Director  
117 Bien Venida Avenue  
Sinajana, Guam 96910

Applications for tax credits should be submitted to GHURA by no later than **5:00 p.m., Friday, July 30, 2021**. GHURA shall have the right to defer the consideration of any application if such deferral is deemed in the best interests of meeting housing needs.

GHURA reserves the right to reject any and all applications that fail to comply with the requirements of the QAP. GHURA further reserves the right to waive minor informalities and/or minor irregularities in any application at its discretion.

Application forms provided by GHURA must bear original signatures where signatures are required. Photocopies of supporting documents will be accepted. Applications should be computer-generated or typed. Handwritten applications are prohibited. Applications should have content, formatting and pagination identical to that of the 2021 Application Form provided by GHURA. It should have no missing information or any information that is erroneous, incomplete or inconsistent. All attachments and supporting documentation required must be included in the Application package.

GHURA shall review the application and supporting documents to ensure that it is complete and contains all required information. Complete applications shall then be evaluated in accordance with the QAP to determine the project's rank in relation to other projects under evaluation. Projects must meet a minimum score of 84 out of 120 to be evaluated to determine the minimum amount of tax credits required to make the project feasible. Projects with a score of 83 or less shall not be considered for award or reservation. The amount of tax credits reserved or allocated to a particular project will be limited to the amount GHURA, in its sole discretion, deems necessary to make the project feasible.

The QAP will utilize a point system to rank projects based upon the evaluation criteria established. In addition to the scores derived, GHURA will review all relevant data required in the application which include, but are not limited to, the applicant's financial statements, experience in producing low-income housing units, reasonableness of development and operating budgets, and an independent market study in awarding the tax credits. If GHURA determines clarification is required, applicant will be notified via written notice. Applicant



# DRAFT

will be given 5 business days from the date of the notice to provide the information to GHURA.

Projects selected under this allocation plan shall then be evaluated as to the minimum amount of tax credits required in order to make the project feasible.

### **III. Minimum Threshold**

It is GHURA's intent to maximize the use of the Territory's limited resources to address the substantial need for rental homes that are accessible and affordable to Guam's low-income households. Emphasis is placed on serving lower income people and on efficiently leveraging LIHTCs and other financing resources to increase and sustain the supply of affordable rentals in communities that are suitable for such development.

#### **A. 9% Credits Set Aside:**

- 1) Applicants are advised that the agency will administer 9% LIHTC credits only to be used for the following:
  - a. Construction of a New Building. The term "New Building", as defined by Section 42 of the IRC, is "a building the original use of which begins with the taxpayer." Rehabilitation of existing inventory but excluding acquisition costs of real estate, buildings, and depreciable assets from eligible basis (no acquisition LIHTC).
  - b. Rehabilitation of an Existing Building used for housing. The term "Existing Building", as defined by Section 42 of the IRC, is "any building which is not a new building". Acquisition LIHTC disallowed: Existing Buildings under this category must exclude acquisition costs of real estate, buildings, and depreciable assets from eligible basis. This category includes the conversion of Existing Buildings used for transient housing to a qualified low-income building. The conversion of Existing Buildings used for transient housing, as with all qualified low-income buildings, must: (i) meet minimum rehabilitation requirements; (ii) be suitable for occupancy; and (iii) be for use other than on a transient basis, as stipulated and defined by Section 42 of the IRC
  - c. Acquisition/Rehabilitation of an Existing Building not used for housing. To qualify under this category, housing use of the Existing Building, if applicable, cannot have occurred for a period of at least 10-years from the date of its acquisition by the taxpayer. Acquisition LIHTC allowed: Existing Buildings under this category may include acquisition costs of buildings and depreciable assets in eligible basis. The conversion of Existing Buildings not used for housing, as with all qualified low-income buildings, must: (i) meet minimum rehabilitation requirements; (ii) be suitable for occupancy; and (iii) be for use other than on a transient basis, as stipulated and defined by Section 42 of the IRC.
  - d. GHURA shall limit awards of 9% (volume cap) LIHTC to no more than one (1) project per calendar year under Section III (A) (1) (b) of the QAP.

# DRAFT

- 2) Project owner/applicant must be established and registered to do business in the Territory of Guam.

## **B. Income Averaging Set Aside**

The Consolidated Appropriations of 2018 established a new income averaging set aside for LIHTC developments. (Please refer to Appendix 1 for income average guidelines.)

## **C. Participation Elements**

Applicants must meet the following to receive consideration for an allocation or award of Low Income Housing Tax Credits.

- 1) **Market Study:** A comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project by a disinterested third party must be submitted as part of this application. The Market Study shall be completed at the Owner's expense. Any applicant failing to submit a Market Study or submits a Market Study with a date older than 6 months before the date of application submission will not be considered for an award of tax credits. (Market Study requirements are specified in Appendix 2.)
- 2) **Site Control and Zoning:** To receive consideration for an award of LIHTC, the applicant must have control of the site in a form acceptable to GHURA. Evidence of site control shall be submitted with the application for Low Income Housing Tax Credits. Site control shall be substantiated by providing evidence in the form of an executed lease or sale option agreement, fee simple deed, executed land lease, or any other documentation acceptable to GHURA. Evidence of site control must be provided for all proposed sites.

**All lease terms must extend a minimum of five (5) years past the minimum affordability period.**

- 3) **Capital Needs Assessment** (For projects acquiring an existing property. All Units need to be reviewed.)

To ensure that the proposed rehabilitation of the project is adequate and that the property will have a useful life that exceeds the compliance and additional use period (collectively the Extended Use Period). A capital needs assessment of the property by a competent third party shall be submitted with the application. A capital needs assessment is a qualified professional's opinion of a property's current physical condition. It identifies deferred maintenance, physical needs and deficiencies, and material building code violations that affect the property's use, structural and mechanical integrity, and future physical and financial needs. The Capital Needs Assessment shall identify any work that must be completed immediately to address health and safety issues, violation of Federal or local law, violation of local code, or any work necessary to ensure that the building can continue to operate as affordable housing.



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4) **Public Housing Waitlist/Homeless Services Programs**

Applicant shall certify that all low-income units will be made available to people on the waiting list for public housing, and/or acceptable homeless service programs. The following shall be submitted with the application:

- a) Copy of the letter submitted to the local public housing authority which administers the public housing waiting lists that units will be available.
- b) Copy of the letter submitted to the Guam Homeless Coalition that provides services and programs to participating homeless services providers that units will be available.

5) **Smoke Free**

All projects will be smoke free. Owners must prohibit smoking in all indoor common areas, individual living areas (including balconies and car ports), and within 20 feet of building entries or ventilation intakes. A non-smoking clause must be included in the lease for each household.

6) **Debt Service Ratio**

a) Hard Debt Service:

- i) Defined as scheduled regular and periodic principal and/or interest payments of project loan obligations made for its direct benefit, as evidenced by a note and loan agreement.
- ii) The Applicant is required to support all hard debt service loans and terms with executed lenders' commitment letters, letters of interest, or term sheets on the Application.

b) Underwriting Criteria:

- i) The Project shall evidence compliance with this section through the operating Proforma on the application.

7) **Phase I Environmental Assessment**

Required for all applications.

For acquisition/rehabilitation projects (if applicable), the Phase I Environmental Assessment should address lead based paint and asbestos.

8) **Proof of Non-Profit Status**

If applying under the Federal non-profit set aside, submit the following:

- a. Articles of Incorporation
- b. Copy of current 501(c)(3) IRS Tax Exemption Letter

9) **Minimum Affordability Period**

- a) Applicants requesting an award of 9% LIHTC must commit to a minimum affordability period of 45 years

## IV. Selection Criteria Point System

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Each application will be evaluated and awarded points in accordance with the following criteria. Unless otherwise indicated, all references to low-income unit(s) or low-income rental unit(s) shall mean low-income housing tax credit unit(s).

Application must have a **minimum score of 84 out of 120 points to be considered for award.**

	CRITERIA	POINTS
1	Project will provide low-income units for a longer period than is required under Section 42 of the Internal Revenue Code.	0 to 6
2	Project will provide a greater percentage of low-income units than required under Section 42 of the Internal Revenue Code.	2 to 8
3	Project's federal tax credit/low-income rental unit ratio for LIHTC Resource Efficiency Use	0 to 7
4	Project will serve tenant populations of individuals with children.	0 or 3
5	Project will serve tenant populations with special housing needs.	0 or 1
6	Qualified Non-Profit Organization	0 to 4
7	Project location and housing needs characteristics	0 to 20
8	Developer experience	0 to 8
9	Project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan	0 to 2
10	Replacement of existing public housing units	0 to 1
11	Total Project Cost Percentage	0 to 10
12	Project will receive project-based rental assistance	0 to 5
13	Local/Federal Government Support	0 to 2
14	Projects intended for eventual tenant ownership	0 to 2
15	Green Building / Energy Efficiency	2 to 12
16	Historic nature of the project	0 to 1
17	Public Housing Waiting List	0 to 3
18	Project Reasonableness	0 to 18
19	Developer Fee	0 to 7



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## **Criteria 1.** (0-6 Points)

Project will provide low-income units for a longer period than is required under Section 42 of the Internal Revenue Code.

Applicants electing to commit to an Extended Use Period inclusion of the 15-year LIHTC compliance period will be awarded points based on the table below. By making this election, the applicant elects to waive its right to exercise a request for a qualified contract pursuant to Section 42(h)(6)(E)(i)(II). The elections will be recorded in the Restrictive Covenant Document. Points will be awarded based on the following:

<b>Extended Use Period</b>	<b>Points Available</b>
15 year compliance period plus 46 years or more	6 Points
15 year compliance period plus 30 to 45 years	4 Points
15 year compliance period plus 16 to 29 years	2 Points
15 year compliance period plus 0 to 15 years	0 Point

## **Criteria 2.** (2-8 Points)

Project will provide a greater percentage of low-income units than required under Section 42 of the Internal Revenue Code.

With respect to the set-aside affordability, if project provides:

<b>Description</b>	<b>Points Available</b>
40% of the project to households earning 60% or less of AMGI, and 60% of the project to households earning 50% or less of AMGI	2 Points
60% of the project to households earning 60% or less of AMGI, or 80% of the project to households earning 50% of less of AMGI.	4 Points
100% of the project to households earning 60% or less of AMGI	8 Points

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## **Criteria 3.** (0-7 Points)

Project's federal tax credit/low-income rental unit ratio for LIHTC Resource Efficiency

The ratio is derived as: "Total Federal Tax Credits Requested (Annual)/Total Number of Proposed Low-Income Rental Units".

Greater than	Less than	Points Available
\$45,999.00		0
\$41,999.00	\$45,999.00	1
\$37,999.00	\$41,999.00	3
\$33,999.00	\$37,999.00	4
\$29,999.00	\$33,999.00	6
	\$29,999.00	7

## **Criteria 4.** (0 or 3 points)

Project will serve tenant populations of individuals with children.

The Project will serve tenant populations of individuals with children for at least 60% of all low-income housing units. The Project should provide evidence through the service of programs for children.

	Points Available
If the answer to the question is NO	0 Points
If the answer to the question is YES	3 Points

## **Criteria 5.** (0 or 1 point)

Project will serve tenant populations with special housing needs.

	Points Available
<p>Special needs. Special needs groups are "persons for whom social problems [including homelessness], age or physical or mental disabilities impair their ability to live independently and for whom such ability can be improved by more suitable housing conditions."</p> <p>Projects may receive 1 point for this criterion if it commits to the following:</p> <p>The project will set-aside at least 20% of all units for tenant populations with special housing needs. Persons with special housing needs may include the physically and mentally disabled. Units intended to serve the homeless must be used as permanent supportive housing, as regulation forbids the use of LIHTC projects as transient homeless shelters. To receive consideration for this criterion:</p>	1 Point



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<p>i) <i>The project must commit to provide case management or services specific to this population or special facilities to accommodate the physically disabled. (Please provide details of the services and/or special facilities)</i></p> <p>ii) <i>The Market Study shall specifically address the housing needs for the special needs group.</i></p>	
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## **Criteria 6.** (0-4 Points)

### Qualified Non-profit Organization

An interest in the Project is owned by a qualified non-profit organization as defined in Section 42(h)(5)(B), (C) of the Internal Revenue Code.

	<b>Points Available</b>
If the answer to the question is NO	0 Points
<p>If the answer to the question is YES, the organization must be a qualified non-profit organization at time of application submission. Organization must exist in and be qualified to do business in Guam. According to IRC Section 42(h)(5)(C), qualified non-profit organization:</p> <ul style="list-style-type: none"> <li>a) must "...own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period";</li> <li>b) "...is described in paragraph (3) and (4) of section 501(c) and is exempt from tax under section 501(a)";</li> <li>c) "...is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization"; and</li> <li>d) "one of the exempt purposes of such organization includes the fostering of low-income housing."</li> </ul> <p>Documents to show proof of qualified non-profit organization should be submitted with application.</p>	4 Points

## **Criteria 7.** (0-20 Points)

### Project location and housing needs characteristics

Application must include a comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project. It must be conducted by a disinterested party. The Market Study must be completed at the Owner's expense. Any application which fails to submit a Market Study or submits a Market Study dated over 6 months from the time of application submission shall be returned to the applicant and will not receive further consideration.

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Market Study requirements are specified in Appendix 2.

The points awarded will be based on GHURA's evaluation of following factors:

Description	Points Available
Employment opportunities, schools, medical facilities located in the immediate vicinity of the project site	2 Points
Recreational facilities, shopping facilities, located in the immediate vicinity of the project site	2 Points
Documented/supported market demand.	10 Points
Proposed rental rates are below market rents for the immediate surrounding area.	
Housing characteristics (e.g., design, density) appropriate for neighborhood.	
Impact to the existing public systems of education, public safety, and utilities infrastructure.	
Neighborhood conducive to family use.	

Additional points will be awarded to projects located in the following areas:

Project Location	Points Available
Northern Region: Dededo, Tamuning, or Yigo	1 Points
Central Region: Agana Heights, Asan, Barrigada, Chalan Pago/Ordot, Hagåtña, Mangilao, Mongmong/Toto/Maite, Piti, or Sinajana	3 Points
Southern Region: Agat, Inarajan, Merizo, Santa Rita, Talofofo, or Umatac	6 Points

## **Criteria 8.** (0 to 8 Points)

Developer experience

The points awarded will be based on GHURA's evaluation of the following factors:

Description	Points Available
Developer (or any member/staff of the development team) has a record of successfully completing LIHTC projects or projects on a scale equal to or greater than that of the proposed project and in accordance with the original project schedule.	8 Points
Developer (or any member/staff of the development team) has a record of successfully completing LIHTC projects or similar projects but on a scale smaller than the proposed project.	5 Points



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Developer (including general partners, affiliates, and members/staff of development team) has a history of chronic and/or substantive noncompliance and/or failed to meet the requirements of the Low Income Housing Tax Credits Program for previous projects or failed in meeting the objectives of the program on past proposals.	1 Point
Developer has no experience in completing LIHTC projects or projects on a similar or lesser scale than the proposed project.	0 Points

## **Criteria 9.** (0-2 Points)

Project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan

Project is located in Qualified Census Tract. The project will redevelop existing housing, which contributes to a concerted community revitalization plan as determined by GHURA.

Description	Points Available
The project is located in a Qualified Census Tract.	1 Point
The project will contribute to a community revitalization plan. (Copy of the plan to be submitted with the completed Application for GHURA's review to claim the point.)	1 Point
The project is neither located in a Qualified Census Tract nor contributing to a community revitalization plan.	0 Points

To receive consideration for this criterion, applicant must provide an explanation on how this project is in compliance with such plan and its benefit to the overall community. The applicant must provide a letter of interest or a binding agreement with the government agency administering the community revitalization plan.

## **Criteria 10.** (0-1 Point)

Replacement of existing public housing units

Project includes the development of new housing to replace existing public housing units.

	Points Available
If the answer to the question is NO	0 Points
If the answer to the question is YES	1 Point

To receive consideration for this criterion, the applicant must provide a letter of interest or a binding agreement from the local administering Public Housing Authority to participate in a HUD-approved activity.

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**Criteria 11.** (0 to 10 Points)  
Total Project Cost Percentage

If total federal tax credit requested (gross) as a percentage of total project cost is:

Description	Points Available
Greater than 80% of total project cost	0 Points
71 % through 80% of total project cost	1 Point
61 % through 70% of total project cost	2 Points
51 % through 60% of total project cost	4 Points
41 % through 50% of total project cost	6 Points
40% or less of total project cost	10 Points

**Criteria 12.** (0-5 Points)  
Project will receive project-based rental assistance.

Project will be receiving project-based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent. Eligible programs shall include, but not be limited to, the Rural Development 515 Loan Program and HUD Housing Choice Voucher/Section 8 Project-Based Rental Assistance Program.

	Points Available
If the answer to the question is NO	0 Points
If the answer to the question is YES  If the whole project has a secured authorization for project-based subsidies then 5 points are awarded. If only a portion of a project has project based subsidies, then the scoring will be adjusted based upon the percentage of units subsidized. The percentage is derived as "Number of Subsidized Units / Tax credit and non-tax credit subsidized units," provided they are developed simultaneously.	5 Points



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## **Criteria 13.** (0-2 Points)

### Local/Federal Government Support

The project will receive a below market loan or grant from a federal agency or Government of Guam agency other than GHURA which, in total amounts to 10% or more of the total development cost.

Description	Points Available
(i) The project has not applied for a below market loan or grant from a federal agency or Government of Guam agency, or if the total amount applied for is less than 10% of total development costs.	0 Points
(ii) The project has applied for a below market loan or grant from a federal agency or Government of Guam agency. Documentation must provide evidence that an application for financing has been submitted.	1 Point
(iii) The project has received a commitment from a federal agency or Government of Guam agency. A copy of a commitment letter or contractual agreement must be included in the application.	2 Points

## **Criteria 14.** (0-2 Points)

### Projects intended for eventual tenant ownership

Developer will sell the units with a preference towards selling to current residents after 15 years.

	Points Available
If the answer to the question is NO	0 Points
If the answer to the question is YES	2 Points

Projects will offer tenants the opportunity for home ownership. The applicant will offer tenants a Right of First Refusal to acquire the property in accordance with Section 42(i)(7) of the Internal Revenue Code. **The applicant must provide a plan discussing how the project will offer the units for homeownership to tenants.**

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## **Criteria 15.** (2-12 Points)

### Green Building / Energy Efficiency

Projects should use energy-efficient practices that promote resource conservation. In addition, all project units **must be individually metered.**

	Points Available
Projects that elect to be LEED certified and include all (8) eight of the features listed below	12 Points
Projects that elect to be LEED certified only	10 Points
Projects that elect to include all eight of the features listed below	8 Points
Projects that elect to include fewer than eight of the features listed below	6 Points
Projects that elect to include fewer than six of the features listed below	4 Points
Projects that elect fewer than four of the features listed below	2 Points

#### Required features:

1. Installation of solar thermal, tank less, or tank-type water heaters that meet ENERGY STAR standards.
2. Installation of water conserving plumbing fixtures: water sense high efficiency toilets (less than 1.28 gallons per flush), showerheads with rated flow less than 1.75 gallons per minute (gpm), kitchen aerators with rated flow less than 1.5 gpm, and bathroom aerators with rated flow less than 1.0 gpm.
3. Installation of five or more ENERGY STAR qualified light fixtures, ceiling fans equipped with lighting fixtures, and/or ventilation fans in each unit.
4. Installation of photo sensors or timers on all outdoor lighting and ENERGY STAR or high-efficiency commercial grade lighting fixtures (T8) in all common areas.
5. Installation of ENERGY STAR appliances including refrigerators, dishwashers, and clothes washers (horizontal axis) in each unit.
6. Reducing heat effects by using ENERGY STAR low emissive roofing products for at least 50 percent of the roof area; or a combination of high-albedo and vegetated roof covering 75 percent of the roof area. Reduce asphalt surface areas and use low emissive pavement coatings and materials for at least 25% of paved surfaces.
7. Provide an easily accessible area dedicated to recycling (at a minimum) newspaper, corrugated cardboard, glass bottles and jars, aluminum cans, and plastic containers (#1 and #2).
8. Equip with "Grid-tied Solar Power System" panels that are to be under warranty for no less than 12 years.



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Upon completion of the project, a certification from a third party, architect, or engineer verifying the green building practices listed above have been used to construct or rehabilitate the building shall be submitted. Failure to provide the certification by six months after the issuance of the IRS Form 8609 will result in forfeiture of the good faith deposit. (Reference Section VI. Fees – Good Faith Deposit)

**Criteria 16.** (0-1 Points)

Historic Nature of the Project

The proposed project will preserve the historic nature of an existing building.

The proposed project involves the preservation of a building(s) on a national or state historic registry.

	Points Available
If the answer to the question is NO	0 Points
If the answer to the question is YES	1 Point

**Criteria 17.** (0-3 Points)

Public Housing Waiting List/Homeless Services Programs

The applicant demonstrates that all low-income units will be made available to people on the waiting list for low-income public housing and/or acceptable homeless shelter programs.

**Copies of notices of LIHTC unit availability to the public housing agency and/or homeless shelter programs should be included in the application.**

	Points Available
If the answer to the question is NO	0 Points
If the answer to the question is YES	3 Points

**Criteria 18.** (0 to 18 Points)

**Project Reasonableness**

The points awarded will be based on GHURA's evaluation of any and all factors that could impact project reasonableness, such as, but not limited to:

Description	Points Available
Reasonableness of development costs & Feasibility of financing structure	0-5 Points
Operational feasibility (for example, unreasonable operating expenses)	0-5 Points
Adequacy of Reserves including but not limited to Operating Reserve and Repair and Replacement Reserve	0-3 Points
Services and amenities provided to tenants that will enhance the livability of the project. (Please cite and narrate the services to be provided and the partners involved within the project.)	0-3 Points
Adequacy of project contingencies in the development budget	0-2 Points

**Criteria 19.** (0 to 7 Points)

**Developer Fee**

The applicant elects to limit the total Developer Fee as a percentage of the total development cost (excluding developer fee and reserves) as presented in the application. The Developer Fee includes total fees paid to the Developer, including, but is not limited to, consulting fees, project management fees, developer overhead, and developer fees. Architectural, Engineering, Accounting, and Legal fees are not included as the Developer Fee.

Applicants receive scores for this criterion based on the table below. Please note the different categories for New Construction vs. Acquisition / Rehabilitation applications.

New Construction		Acquisition / Rehabilitation			
		Fee on Acquisition		Fee on Rehabilitation	
Fee	Points	Fee	Points	Fee	Points
18% > Fee ≥ 16%	0	13% > Fee ≥ 11%	0	18% > Fee ≥ 16%	0
16% > Fee ≥ 14%	1	11% > Fee ≥ 9%	1	16% > Fee ≥ 14%	1
14% > Fee ≥ 12%	2	Fee < 9%	3	14% > Fee ≥ 12%	2
12% > Fee ≥ 10%	3			Fee < 9%	4
10% > Fee ≥ 8%	5				
Fee < 8%	7				



## **V. Rights of GHURA**

The awarding of tax credits rests solely with the GHURA Board of Commissioners. Further, GHURA retains its discretionary authority to approve or disapprove any post-award modifications to the project.

GHURA reserves the right to disapprove any application or project for any tax credit reservation or allocation, regardless of ranking under the criteria and point system as contained in Sections III and IV of this QAP. GHURA shall have the authority to defer consideration of any application if such deferral is deemed in the best interest of meeting housing needs.

GHURA reserves the right, in its sole discretion, to do the following:

- (i) Hold back a portion of the annual federal housing credit ceiling for use during later reservation cycles,
- (ii) Carryover a portion of the current year's housing credit ceiling for allocation to a project which has not yet been Placed in Service, and
- (iii) Issue a reservation for the next year's housing credit ceiling.

GHURA is required under the IRC of 1986, as amended, to allocate the minimum amount of tax credits required to make a project feasible. The determination of the amount of tax credits to be reserved or allocated to a project shall be made solely at the discretion of GHURA. GHURA may, at the time of issuance of the IRS Form(s) 8609 for the project, decrease the amount of tax credits allocated to a project based on the actual cost and financing of the project.

GHURA may, at its sole discretion, conduct a special round after the final scheduled round for a year for projects (i) where the applicant's tax counsel has attested to an itemization of how the ten percent test prescribed by Internal Revenue Code Section 42(h)(1)(E) will be met; (ii) which have no deficient application items; and (iii) for which all exhibits have been submitted ("Year-End Round"). Year-End Round projects will receive a Carryover Allocation, not a reservation of LIHTCs, which may contain certain conditions and time periods for satisfying them. The circumstances for conducting a Year-End Round are (1) availability of LIHTCs and (2) potential loss of LIHTCs to the national pool. When a Year-End Round is being conducted, applicants need to satisfy the above requirements in order to receive a Carryover Allocation; and LIHTCs will be processed on a first-come-first-served basis and allocated to the extent available and to the extent applications can be processed.

GHURA in no way represents or warrants to any interested party which may include, but is not limited to, any developer, project owner, investor or lender that the project is, in fact, feasible or viable.

No GHURA member, officer, agent or employee shall be personally liable concerning any matters arising out of, or in relation to, the reservation or allocation of Low-Income Housing Tax Credits.

## **VI. Fees**

The following fees are associated with the Low Income Housing Tax Credit program. GHURA reserves the right to adjust the fees due to changing circumstances annually each January 1. All fees shall be paid via Cashier's Check and made payable to **Guam Housing and Urban Renewal Authority**.

### **Application Fee**

An Application Fee of **\$1,500 per application** shall be payable at the time of submission of the application. The fee shall be the same for all applicants.

### **Good Faith Deposit**

A good faith deposit of ten percent (10%) of the first year's federal tax credits reserved shall be payable at the time the executed binding agreement is submitted to GHURA. Upon allocation and issuance of the IRS Form 8609, sixty percent (60%) of the good faith deposit shall be retained by GHURA as an administrative fee. The remainder of the good faith deposit may be refunded to the applicant in the sole discretion of GHURA. Failure to meet any of the elections made in the scoring criteria, participation elements, or requests for additional credits at the time of application may result in the retention of the entire good faith deposit by GHURA.

### **Compliance Monitoring Fee**

Please refer to Section 'VII. Compliance Monitoring Plan' for more details regarding the Compliance Monitoring Fee.

### **Qualified Contract Processing Fee**

Qualified Contract Fee of \$150 per unit for all units

### **Attorney's Fees and Costs:**

In the event of a dispute or litigation regarding a QAP Agreement, the prevailing party shall be entitled to collect reasonable attorney's fees, costs, and expenses.

## **VII. Compliance Monitoring Plan**

### **A. Summary**

GHURA shall monitor compliance with all applicable Federal Program requirements for the period a project is committed to providing low-income rental units. GHURA will require that all qualified tenants of a project be certified upon occupancy and be re-certified annually to ensure compliance. Projects shall be required to maintain copies of the income certification for each tenant on forms approved by GHURA. Projects will also be required to maintain records regarding number of rental units (including number of bedrooms and size of square footage of each bedroom); percentage of total rental units that are low-income units; rent charged on each rental unit including utility allowances; number of occupants in each low-income unit for those buildings receiving tax credits prior to 1990; documentation regarding vacancies in the building; eligible and qualified basis of the building at the end of the first year of the credit period, and at the end of each



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year until required set-asides are met; and character and use of the nonresidential portion of the building that is included in the building's eligible basis, all in accordance with the rules published by the Internal Revenue Service. GHURA may perform an audit annually but at a minimum, once every three years, and shall have access to all books and records upon notice to the project owner.

Annually, owners of low-income housing tax credit projects will be required to certify to GHURA that for the previous year,

- the minimum set-aside requirement was met;
- there was no change in the applicable fraction, or an explanation if there was a change; appropriate income certifications and documentation have been received for each low-income tenant;
- each low-income unit was rent-restricted in accordance with the Code;
- all units were for use by the general public and used on a no transient basis (except for transitional housing for the homeless as provided for in the Code);
- each building was suitable for occupancy, taking into account local health, safety and building codes;
- there was no change in the eligible basis in the project, or an explanation if there was a change;
- all tenant facilities included in the eligible basis were provided on a comparable basis without charge;
- rentals of vacancies were done in accordance with the Code;
- rentals of units were done in accordance with the Code if any tenant's income increased above the limit allowed by the Code;
- a Restrictive Covenant document was in effect for the project, for those buildings receiving credits after 1989, all in accordance with the rules published by the Internal Revenue Service.

If GHURA becomes aware of non-compliance, the Internal Revenue Service shall be notified in accordance with the rules published by the Internal Revenue Service.

Please consult with your tax attorney and/or LIHTC consultant regarding Internal Revenue Code regulations. Owners are responsible for keeping abreast of current LIHTC Program requirements.

The guidelines outlined below in sections B through K pertain to projects allocated Low Income-Housing Tax Credits in Guam.

## **B. Compliance**

### **Owner/Manager Training**

Owners, managing agents, and on-site managers should attend or document that they have recently attended training on management and compliance prior to leasing any units, but no later than receipt of IRS Form 8609, which certifies an allocation of tax credits. Training may be required following significant or repeated noncompliance events. At minimum, such training should cover key compliance terms, qualified basis rules, determination of rents, tenant eligibility, file documentation, next available unit

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procedures and unit vacancy rules, agency reporting requirements, record retention requirements, and site visits.

## **Set Aside**

The project must comply with the low-income set-aside requirements of Section 42 of the Internal Revenue Code- as chosen by the owner at the time of receiving the credits. The minimum requirements are either:

1. 20 percent or more of the units are occupied by tenants having a household income of 50 percent or less of the area median gross income (the "20-50 requirement"), or
2. 40 percent or more of the units in the project are occupied by tenants having a household income of 60 percent or less of the area median gross income (the "40-60 requirement").
3. Election of income averaging for new LIHTC developments where LIHTC Qualified Units (Units) may serve households earning up to 80% of the Area Median Income (AMI) so long as the average income limit of the Qualified Units is 60% or less of AMI. Designated income levels for Qualified Units may be set at 10% increments between 20% and 80% of AMI. See Appendix 1 for further guidance.

Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937, as directed by the Internal Revenue Code. Area median incomes are determined annually by the U.S. Department of Housing & Urban Development (HUD), and are available from GHURA.

## **Rent**

Units in the project must be rent-restricted to thirty (30) percent of the imputed income limitations based on unit size as provided in Code Section 42(g)(1). This rent restriction must be maintained throughout the Term of the Compliance and Extended-use period. See 'D. Rent Restrictions' in this section for further information.

## **Term of Compliance**

Projects receiving a LIHTC allocation after January 1, 1990, must comply with eligibility requirements for the extended use period [initial 15-year period (compliance period), in addition to the 15 or more years (extended use period)] determined by elections indicated in the Restrictive Covenant Document. The Restrictive Covenant Document must be recorded before credits are allocated.

## **Annual Certification**

These and other compliance requirements as listed in Section 'A. Summary' must be certified annually by the owner through the submission of the Annual Report. The Annual Report includes the Owner's Certificate of Continuing Program Compliance and shall be submitted by February 1 of each year throughout the compliance/extended-use period.

## **Records Retention**

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The Annual Report and the supporting documentation verifying the information on the Annual Report must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

## **IRS Form 8609**

Owner shall complete Part II of IRS Form 8609 and submit with subsequent Annual Reports.

## **Qualified Basis Tracking Sheet (QBTS)**

This form shall be submitted annually until the required set-asides are established. Documents will provide information on original tenants qualifying each building for tax credits minimum set-asides, and other set-asides.

## **Status Reports**

This report is to be submitted annually by owners in such format as required by GHURA or its Authorized Delegate to document and track the continuous compliance of tax credit units. The documents report data that tenants are income eligible at move-in, that the occupants of LIHTC units are re-certified at least on an annual basis and that the unit rents are restricted. Documentation will also indicate compliance with the vacant unit rule and 140% rule. The tracking of tax credit units substantiates the maintenance, increase or reduction of each BIN's qualified basis.

## **C. Qualifying Households**

Applicants for low-income units should be advised early in their initial visit to the project that there are maximum income limits which apply to these tax credit qualified units. Management should explain to the tenants that the anticipated income of all persons expecting to occupy the unit must be verified and included on a Tenant Income Certification (TIC) prior to occupancy, and re-certified on an annual basis. Applicants should be informed of other Internal Revenue Service requirements such as the Student Rule and Recertification.

## **Unborn Children**

In accordance with the HUD Handbook 4350.3, owner shall include unborn children in determining household size and applicable income limits. If permitted by state laws, owner shall require documentation of pregnancy in such circumstances.

## **Student Households**

In accordance with the Internal Revenue Code, a household comprised entirely of full-time students may not be counted as a qualified household, unless the household meets at least one exception. Refer to the Internal Revenue Code for additional guidelines on the exceptions. Owner shall utilize a lease provision requiring tenants to notify managing agent of any change in student status.



## **Calculating Anticipated Tenant Income**

Owner shall qualify tenants by calculating household income using the gross income the household anticipates it will receive in the 12-month period following the effective date of the income verification or Recertification. Anticipated income should be documented in the tenant file by third party verification whenever possible, or by an acceptable alternate method of verification with documentation as to why third party verification was not available. Owner shall use current circumstances to project income, unless verification forms or other verifiable documentation indicate that an imminent change will occur. Owner shall refer to HUD Handbook 4350.3 for guidance on the proper calculation and verification of income and assets per IRC regulations.

## **Certification**

Upon acceptance of an applicant to the project, a TIC must be completed for the applicant and certified to by the applicant and the owner. The form is a legal document which, when fully executed, qualifies the applicants to live in the set-aside units in the project.

The TIC must be executed along with the lease prior to move-in. No one may live in a unit in the project unless certified and under lease.

The original copy of the executed TIC form is to be retained in the applicant's file. The TIC and the supporting documentation verifying the TIC must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

## **Recertification**

For 100% LIHTC set-aside projects, annual recertifications are not required after January 1, 2014. However, Owners **must recertify** households **at least once** on the first anniversary of their initial tenancy.

For projects with less than 100% set-aside:

To ensure each unit is complying with the LIHTC income restrictions, GHURA requires (a) the owner to annually recertify each tenant's income and household composition and (b) each tenant is to report certain changes in income and household composition which occur between regularly scheduled recertification.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next available unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

Each tenant's annual recertification is to be completed within one year of last recertification. The request for recertification shall be made between 60 and 90 days

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before the effective date, and it must clearly state that the tenant has ten (10) calendar days in which to contact the owner to begin recertification processing. The notice must also state the days and hours available for the interview, the information the tenant should bring to the interview, and how and whom to contact to schedule the interview.

Upon re-verification of the tenant's income, the owner shall complete a new TIC, which shall be certified to by the owner or owner's designee.

## **Past-Due Recertification**

A recertification is considered past due if the TIC form for the tenant is not certified by tenant and owner within twelve months of the last recertification.

## **D. Rent Restrictions**

Projects receiving Low-Income Housing Tax Credits after January 1, 1990 must comply with the following procedures:

- Units in the project must be rent-restricted to 30% of the imputed income limitations for each unit, based upon HUD area median incomes and size of units. Rents are imputed by bedroom size in the following manner: a unit which does not have a separate bedroom - 1 individual; and a unit with 1 or more separate bedrooms - 1.5 individuals per bedroom.
- Gross rent does not include any payment for various rental assistance programs and supportive service assistance as outlined in Section 42 of the Code. Gross rent must include any allowance for utilities.

HUD publishes the area median incomes for each state and territory annually. Updated income limits must be implemented pursuant to IRS Revenue Ruling 94-57, "Taxpayers may rely on a list of income limits released by HUD until 45 days after HUD releases a new list of income limits, or until HUD's effective date for the new list, whichever is later." Rents may be increased accordingly as the area median income increases.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

## **E. Eviction of Tenants**

Once an eligible tenant has been certified and admitted to the project, the tenant may not be displaced solely due to an increase in the tenant's household income beyond the restricted limit.

## **F. Audits**

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The project may be subject to a management audit by GHURA or its Authorized Delegate annually but, at a minimum, once every three years. Notification of an audit shall be given to the owner at least 30 days prior to such audit. The results of the management audit and the recommendations for corrective action to protect and maintain the project shall be transmitted to the owner within thirty (30) days following the completion of the audit.

The purpose of the audit will be to conduct a physical inspection of the building and/or project, and, for at least 20 percent of the project's low-income units, to inspect the units and review the low-income certifications, documentation supporting the certifications, and rent records for the tenants in those units. The audit may also consist of a review of first year tenant records, a review of the documentation supporting the Annual Report, and any other documentation necessary for GHURA to make a determination as to whether the project is not in compliance with the Code.

When conducting tenant file reviews, GHURA's and its Authorized Delegate's reviews shall include, but not be limited to:

- completed rental application, including certification of assets and disposal of assets, if applicable;
- tenant income certification completed for move-in and current year, including all required signatures and dates;
- income verification(s) completed and documented;
- assets verified in accordance with IRC regulations;
- student eligibility documentation;
- lease and lease addendums completed at move-in;
- utility allowance on file;
- review of first year tenant records which qualified the project initially for tax credits

The owner shall have a period of thirty (30) days in which to respond to the findings of the management audit. GHURA shall review the owner's response to determine the extent to which the issues raised in the management audit letter are addressed. Findings, whether corrected or not, will be reported to the IRS.

See Section 'J. Non-compliance Penalties' for information on notification to the IRS of any non-compliance found in the management audit.

## **G. Rural Housing Service (RHS) and Tax-exempt Bond Issue Projects**

In accordance with the published IRS guidelines on compliance monitoring, an exception may be granted to RHS projects under its section 515 program and buildings or projects of which 50 percent or more of the aggregate basis is financed with the proceeds of tax-exempt bonds.



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The IRC regulations allow for exception of a building from the inspection requirement if the building is financed by RHS under the section 515 program, the RHS inspects the building [under 7 CFR part 1930(C)], and the RHS and the allocating agency enter into a memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the allocating agency of the inspection results. Irrespective of the physical inspection standard selected by the allocating agency, a low-income housing project under section 42 of the Internal Revenue Code must continue to satisfy local health, safety and building codes. A memorandum of understanding has not been executed between GHURA and RHS.

Annual Reports, QBTS, Compliance Monitoring Status Reports and other reports are still required of RHS projects. Although GHURA has allowed the use of the RD 1944-8, the form does not determine eligibility for specific LIHTC requirements. Owners need to determine whether the TIC will be used or a worksheet will be attached to RD 1944-8 to determine eligibility under the IRC. Management audits will still be conducted as indicated herein.

An owner who for some reason is not able to make any of the required certifications stated on the Annual Report or other requirements must inform the Agency immediately of such inability, as well as explain the reason for said inability.

## **H. Reporting Requirements**

- a. The LIHTC Annual Report must be submitted annually by February 1 of each year throughout the compliance/extended use period.
- b. Part II of the IRS Form 8609 must be completed by the owner and submitted with initial Annual Report.
- c. Qualified Basis Tracking Sheets (QBTS) are submitted at a minimum annually with LIHTC Annual Report until all set-asides are established.
- d. Status Reports are submitted annually by owners with Annual Report to document and track the continuance compliance of tax credit units throughout the compliance/extended-use period.

These forms must be sent in to GHURA or its Authorized Delegate at the address shown in Section II.

The Certification of Eligibility and LIHTC forms listed above are available from GHURA. Additionally, GHURA has data regarding HUD area median incomes, maximum rental rates, income verification information and third party verification forms.

## **I. Fees**

A compliance monitoring fee of up to \$100 per unit for all units within each project shall be charged annually for administrative expenses. This fee shall be submitted with the LIHTC Annual Report for each year of the compliance/extended-use period. GHURA reserves the right to adjust fees due to changing circumstances annually each January 1. It will be the responsibility of GHURA to inform the owner of any changes in the annual

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compliance fee prior to the submission of fees. The compliance monitoring fee will be effective as of the Placed in Service date for the first building.

## **J. Non-compliance Penalties**

The penalty for non-compliance with the LIHTC Program is the potential recapture of the credits awarded and interest on the amount recaptured. The Internal Revenue Service shall determine penalties for non-compliance.

Upon determination by GHURA of non-compliance with the LIHTC Program, the owner shall be notified and given thirty (30) days to correct any discovered violations. In accordance with the Internal Revenue Service's published guidelines on compliance monitoring, GHURA will be required to notify the IRS within forty-five (45) days after the end of the thirty day correction period, whether or not the non-compliance is corrected. GHURA will be given the opportunity on the IRS form to indicate whether the owner has corrected the non-compliance. GHURA may extend the correction period, up to a total of six (6) months, if it is determined by GHURA that good cause exists for granting such an extension. In such case, the IRS will not be notified until the end of the extended correction period.

## **K. Extended Use Period**

After the initial 15-year compliance period is the Extended Use Period, GHURA is no longer required to report instances of non-compliance to the IRS. Compliance during the Extended Use Period (EU Compliance Policy) will concentrate on enforcing the requirements of the LIHTC program through the term of the Declaration of Restrictive Covenants for Low Income Housing Credit recorded on the property. The EU Compliance Policy is largely based on the procedures of the initial compliance period. Unless noted below, the policy and procedure for compliance during the initial compliance period shall continue to apply to the extended use period.

### **Effective Date**

The EU Compliance Policy shall be effective on the first day after the expiration of the initial 15-year compliance period for the last building placed in service in the project. Generally, the extended use compliance period will begin on January 1 of the year after the expiration of the initial 15 year compliance period of the last building placed in service and be in effect until the end of the extended use period.

### **Income and Rent Set Aside**

Owners are subject to the Section 42 occupancy and rent restrictions required in the Declaration of Land Use Restrictive Covenants for Low-Income Housing Credits.

### **Student Households**

As GHURA wants to ensure that properties in the extended use period are not used as dormitory housing, a modified student eligibility requirement will be enforced. During the extended use period, a household comprised entirely of full time students will qualify as long as at least one member of the household is an independent student or is a student

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in grades Kindergarten through 12 (including home schooled minors studying course material within these grades). An independent student is defined as one who is not claimed as a dependent on his/her parent's tax return (proof required).

## **Available Unit Rule / 140% Rule**

For projects which include market rate units, the Available Unit Rule and the 140% Rule do not apply during the extended use period. The percentage of tax credit units as specified in the Declaration of Restrictive Covenants for Low Income Housing Credits must be maintained throughout the extended use period.

## **Certification and Recertification**

Certification of tenants at the time of move-in shall be required during the extended use period according to the same procedure as the compliance period. Recertification of tenants will not be required during the extended use period. However, if any adults are added to the household, then the household must be re-certified.

## **Unit Transfers**

During the extended use period, unit transfers are allowed without a new income qualification. Documentation of all unit transfers that occur shall be submitted as part of the Reporting Requirements.

## **Reporting Requirements**

1. The **LIHTC Annual Report** must be submitted annually by February 1 of each year throughout the extended use period.
2. **Status Reports** are submitted annually by owners with the Annual Report to document and track the continuing compliance of tax credit units throughout the extended use period.

## **Site Audits**

Commencing within three years after the expiration of the Compliance Period, site audits for projects may be conducted at least once every **five** years. Projects that have substantial outstanding non-compliance beyond the correction period based on the findings of the most recent site audit may be subject to more frequent site audits.

## **Owner Inspection**

Owners shall conduct an annual physical inspection of each unit and common areas in the project.

## **Correction Period and Non-compliance Penalties**

Upon determination by GHURA of non-compliance with the LIHTC Program during the extended use period, the owner shall be notified and given thirty (30) days to correct any discovered violations. GHURA may extend the correction period on a case-by-case basis, up to a total of six (6) months, if it is determined by GHURA that good cause exists for granting such an extension. Owners may request GHURA to review all outstanding non-compliance issues for a property once per calendar year after the initial correction period. Any owner and constituent entities involved in management and ownership of a



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project with an unresolved finding of non-compliance beyond the initial correction period may be deemed to be Not in Good Standing by GHURA's Fiscal Department. Owners must clear all outstanding non-compliance issues to be deemed in Good Standing with GHURA.

## **VIII. Appeal**

All appeals shall be resolved in accordance with GHURA's Appeals and Process Procedure, copies of which are maintained at GHURA's office.

## **IX. Other**

High Cost Area Designation. Newly constructed buildings located outside of designated Difficult to Develop Areas or Qualified Census Tracts qualify as a high cost area. The additional LIHTC available from the "basis boost" will be used to offset the high cost of construction and land throughout the island.

## **Appendix 1 Income Averaging Guidelines**

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### **GHURA Guidelines for Utilizing the Income Averaging Minimum Set-Aside for Applications under Consideration or Already Approved**

The Consolidated Appropriations Act of 2018 establishes income averaging as a new minimum set-aside election for new LIHTC developments. It allows LIHTC Qualified Units to serve households earning as much as 80% of Area Median Income (AMI) so long as the average income limit of the Qualified Units is 60% or less of AMI. Designated income levels for Qualified Units may be set at 10% increments between 20% and 80% of AMI. GHURA will accept proposals for utilizing income averaging in application that are under consideration, have already been approved or have already initially closed, subject to the requirements outlined below.

#### **General Requirements for All Income Averaging Proposals:**

- Utilization of income averaging requires GHURA consent
- Proposals will not be accepted without evidence of approval by the syndicator/investor
- Changes in the AMI bands must be supported by a market study
- Proposals must maintain the requirements of any GHURA funding award
- A revised application and associated exhibits may be required
- If the use of income averaging triggers higher fees for compliance monitoring, the increase will need to be incorporated in the project budget

#### **Additional Requirements for Developments that have already initially closed:**

- Proposals will only be considered for Developments that have not yet executed Form 8609
- The proposal must continue to meet the requirements of the Section 42 of the Internal Revenue Code
- Set-aside elections made in the Extended Housing Commitment executed at initial closing and recorded at the Recorder's Office may need to be amended

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## **Appendix 2 Market Study**

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In accordance with Section 42(m)(1)(A)(iii) of the Internal Revenue Code, GHURA requires a comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project. The Market Study is to be conducted by a disinterested party approved by GHURA and must be submitted as part of the application. The Market Study shall be completed at the Owner's expense. Any applicant that fails to submit a Market Study, or submits a Market Study dated more than 6 months earlier than the date of application shall be returned to the applicant and the application will not receive further consideration.

The Market Study shall address the following information:

- A statement of the competence of the market analyst.
- A description of the proposed site.
- Demographic analysis of the number of households in the market area which are income eligible and can afford to pay the rent. Estimate of capture rates for the market areas.
- Geographic definition and analysis of the market area.
- Identification of the project including location, unit counts, income levels and target population. Market Study must be consistent with the proposed project.
- Analysis of household sizes and types in the market.
- A description of comparable developments in the market area.
- Analysis of practically available rents, vacancy rates, operating expenses and turnover rates of comparable properties in the market area.
- Analysis of practically available rents, vacancy rates and turnover rates of market rate properties in the market area. Projected operating funds and expenses, when available at the time of the study.
- Expected market absorption of the proposed rental housing, including a description of the effect of the market area.
- Identification and commentary of proposed projects in the market areas.
- Analysis of market demand for tenants with special housing needs when applicable.
- Analysis of impacts of development to the area's existing education, public safety, and utilities infrastructure.

Projects that are requesting credits from eligible basis generated from a Community Service Facility as defined in Section 42(d)(4)(C)(iii) must provide a market study that addresses the following:

- A description of Services provided that improve the quality of life for community residents.
- The market area and demand for services provided.
- The applicability of service provided to the community.
- The affordability of the services provided to persons of 60% AMGI or less.