A. Background

The Allocation Plan provides that Applicants of Developments may not transfer RHTCs without the prior written consent of the Authority. Terms used herein, not otherwise defined, shall have the meanings ascribed to them in the Allocation Plan. The purpose of these policies and procedures is to provide guidance to sponsors and/or owners of Developments regarding the transferability of RHTCs.

As used herein, the term "transfer" or "transfer of RHTCs" refers to the proposed transfer of a direct or indirect ownership interest in a Development. For example, and not limitation, a transfer of a Development may be made directly by a transfer of the physical assets, or, indirectly, by a transfer of interests in an entity which owns the physical assets comprising the Development. The term "transfer" includes the transfer of a Development to or from a partnership or other entity, a substitution or change of the general partner of a partnership, or the direct or indirect transfer of any beneficial ownership in a general partner of a partnership or equity interest in any other entity. Notwithstanding, the term "transfer" shall not include the transfer of a limited partner interest in a limited partnership.

B. Procedures

As a condition precedent to the Authority's consideration of a proposed transfer:

1. The proposed transferee shall submit a new application setting forth any and all information contemplated therein as if the proposed transferee were the original applicant, sponsor, or owner (the "New Application"). The New Application shall be filed and marked to show any and all changes in information from that which is set forth in the Original Application.

2. The proposed transferee shall also submit a schedule identifying all differences between the Original Application and New Application with cross-references to page numbers and sections, which differ.

3. All applicable filing fees for the New Application shall be paid at the time of the filing of the New Application. The Authority may, in its sole discretion, refund a portion of the fees to the Applicant.

4. The proposed transferee of the RHTCs shall certify that the information set forth in the New Application or otherwise filed with the Authority is true, complete and not misleading in any respect. The proposed transferee shall agree therein to complete the Development in the manner and within the time schedule set forth in the New Application.

5. The proposed transferee shall submit such further documents, assurances, certificates and other information and materials in support of the New Application, as the Authority shall require in its sole and absolute discretion.

6. The transferor must sign a certification releasing all rights of the tax credits to the transferee. The transferee assumes all obligations associated with the tax credits/development from the transferor to the Authority.

C. Approval and Documentation

Based upon the Authority's review of the New Application and other filings referred to herein, the Authority may approve or disapprove the proposed transfer in its sole and absolute discretion. No consent or approval of the Authority with respect to the proposed transfer shall be effective without the written consent of the Authority and any attempt to affect a transfer without such prior consent shall be void from inception. Such approval may be conditioned upon receipt by the Authority of any and all documents or instruments to be executed by the proposed transferor and transferee in order to effectuate the transfer contemplated hereby and such future conditions as the Authority may impose from time to time. Consent to a transfer shall not be deemed to be consent to any subsequent transfer or a waiver of the Authority's right to require the Authority's consent to any future transfers. Any consent, action, review, recommendation, approval, or other activity taken by or on behalf of the Authority shall not, expressly or impliedly, directly or indirectly, suggest, represent, or warrant that the sponsor, owner, and/or Development qualify for the RHTC, or that the Development complies with applicable statutes and regulations or that the Development is or will be economically feasible.

The Authority may waive any of the above requirements if the Authority determines, in its sole and absolute discretion, that compliance with the above procedures is not necessary for the Authority to achieve its housing goals.

A taxpayer that disposes of a qualified low-income building, or an interest therein, after the issuance of IRS Form 8609 shall submit to the Authority the following:

1. A copy of the completed Form 8693
2. A copy of the sale documents
3. Owner Certification completed by the new owner
4. A sum equal to the compliance-monitoring fee for one year

D. Surety Bonds for Dispositions of Qualified Low Income Buildings

After the issuance of IRS Form 8609 a taxpayer that disposes of a qualified low income building, or an interest therein can defer or avoid recapture by furnishing a bond to the Secretary in an amount satisfactory to, and for the period prescribed by the Secretary.

A surety holding a Certificate of Authority from the Department of the Treasury, Financial Management Service, must secure the obligation under the bond and that surety must be listed in Treasury Department Circular 570.

Taxpayers having problems obtaining a Surety through the Circular 570 should contact the Internal Revenue Service, Rental Housing Tax Credit Compliance Unit at 215-597-1976 x144.

For specific guidance on the Bond process consult Revenue Ruling 90-60.

The minimum required bond amount is generally the product of the total RHTCs of the taxpayer times the appropriate bond factor amount. Bond Factor Tables to calculate the above were initially published in Revenue Ruling 90-60, and subsequent updates have been provided via additional Revenue Rulings. See Below:

- Revenue Ruling 90-88 Revenue Ruling 91-67 Revenue Ruling 92-101 Revenue Ruling 93-83
- Revenue Ruling 94-71 Revenue Ruling 95-83 Revenue Ruling 96-16 Revenue Ruling 96-33
- Revenue Ruling 96-45 Revenue Ruling 96-59

Form 8693 is the correct form to file to post a Rental Housing Tax Credit Disposition Bond under the Code. This form includes applicable information regarding the building, the owner, and the surety. This form should be sent to the Internal Revenue Service.