



Protections Delayed:

State Housing Finance Agency Compliance With The Violence
Against Women Act

Advocacy Toolkit

The “Protections Delayed” Advocate’s Toolkit is designed to assist legal aid providers and other advocates in understanding Low-Income Housing Tax Credit rules and related issues.

Included in the Toolkit:

- Evicted for Calling 911? Three Questions to Help Advocates Fight Back
- Infographic: The Basic Structure of a Low-Income Housing Tax Credit Deal
- Infographic: Legal Advocacy for Low-Income Housing Tax Credit Tenants
- Infographic: Advocacy for Your Community Using the Qualified Allocation Plan
- Qualified Allocation Plans by the National Housing Law Project
- An Example of Successful Qualified Allocation Plan Advocacy from Regional Housing Legal Services
- Know Your Rights: Domestic and Sexual Violence and Federally Assisted Housing (February 2017) by the National housing Law Project
- LIHTC Database: List of LIHTC Allocating Agencies Providing Data for the LIHTC Database and their Web Addresses from the U.S. Department of Housing and Urban Development



Protections Delayed: State Housing Finance Agency Compliance with The Violence Against Women Act

Evicted for Calling 911? How Advocates Can Fight Back.

Originally Published in the RHLS Blog

June 2nd, 2017

A domestic violence survivor comes to you with an eviction notice. The reason? Multiple police calls, excessive noise complaints—the survivor experienced abuse at home and called for help. How do you make sure they aren't improperly evicted?

A domestic violence survivor comes to you with an eviction notice. The reason? They called for help. Multiple 911 calls. In other words, the survivor suffered abuse at home and called for help. How do you make sure they aren't improperly evicted?

If your client lives in a Low-Income Housing Tax Credit (LIHTC) property, there are protections under the Violence Against Women Act (VAWA), but enforcement isn't always automatic. This post teaches you: 1) how to identify LIHTC units; 2) the VAWA rights for persons in LIHTC units; and 3) first steps to take if you are seeing a systemic problem.

[NOTE: There are also VAWA protections for other property types, protections for survivors under the Fair Housing Act, and there may also be applicable state or local laws.]

Question One: Is your client in an LIHTC property?

Here's a quick checklist of places to look:

- Ask your client. They may know but often do not.
- Read the lease and any addendums.



- Check one of the online LIHTC databases, such as the Novogradac and Company LLP LIHTC Mapping Tool.
- Google the property name and "LIHTC."
- Call the property manager and ask (they also may not know).
- Contact the state housing finance agency, which manages the LIHTC program in your state.

Question Two: Is your client in an LIHTC unit?

In most cases, all the units in a LIHTC property will be LIHTC units. However, in some cases, the property will be mixed income. Tenants living in non-LIHTC units do not have the protections described in this post, but may have other protections (see "Note" above). Here are some steps to take to try to confirm your client is in an LIHTC unit:

1. The lease or lease addendum may say that the unit rented is a LIHTC unit.
2. The LIHTC Mapping Tool has information (for most properties) about the total number of units and the number of low-income units. Click on the second tab of the pop-up to find this information.
3. If your client's rent is at or below the maximum they may well be in an LIHTC unit (to get the LIHTC maximum rent, try searching for the name of your state housing finance agency with the phrase "LIHTC maximum rent." To confirm, call your local housing finance agency and ask to speak to the person who administers the LIHTC program.

Question Three: My client is in an LIHTC unit. Now what?

He/she cannot be:

- denied a unit because they are victims or threatened victims of domestic violence, dating violence, sexual assault or stalking;
- evicted from a unit because they are victims or threatened victims of domestic violence, dating violence, sexual assault or stalking; or
- denied assistance, tenancy, or occupancy solely on the basis of criminal activity (where the criminal activity is intimate partner violence or sexual assault and your client is a victim).

Unfortunately, many key people -- the building owner, property manager, eviction attorney, and courts -- may not know about these protections. Your job will be to educate everyone involved.

To learn more about the legal protections for survivors living in LIHTC units and the unevenness among the states in spreading the word about those rights, read *Protections Delayed: State Housing Finance Agency Compliance With The Violence Against Women Act*.



I keep seeing the same problem over and over.

If you are seeing survivors improperly threatened with eviction over and over, additional steps are needed. Check out how your state ranked in the *Protections Delayed* report. If they didn't respond or responded poorly, you probably need to start thinking about engaging in advocacy related to how the LIHTC program is administered in your state. We're planning a series of posts and infographics to help you understand how to get involved. To get started, see our infographics on how the LIHTC program works, how to LIHTC Legal Advocacy, and QAP Advocacy.

Rachel Blake is Associate Director at Regional Housing Legal Services. For more information this toolkit, you can contact Rachel at rachel.blake@rhls.org.

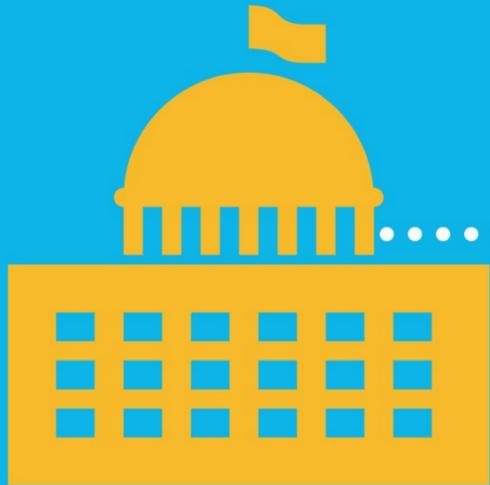


Regional Housing Legal Services (RHLS) is a nonprofit law firm with unique expertise in affordable, sustainable housing and its related components—community and economic development, utility matters and preservation of home ownership. RHLS provides innovative project and policy solutions that help create sustainable communities offering decent, safe and affordable housing for lower-income Pennsylvanians. RHLS uses its decades of experience in affordable housing, community development, and utility issues to ensure the continued development of high quality affordable housing that is responsive to critical needs.

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1

IRS allocates tax credits to each state based on population.



2

State allocating agency adopts a Qualified Allocation Plan (QAP) which reflects the state's priorities for housing development.



3

Developers submit proposals to the allocating agency.



4



Allocating agency awards tax credits to some developers, in accordance with priorities set in the QAP.

The Basic Structure of a Low-Income Housing Tax Credit Deal



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7



The developer submits compliance reports to the allocating agency.

6

Developer builds and operates the housing.



5



Investors purchase a share in the development, providing the equity needed to fund the project.

Housing funded with Low-Income Housing Tax Credits (LIHTC) is required to follow certain rules on affordability, evictions, protections for survivors of domestic or sexual violence, and more.



If you think your client's protections were violated, first confirm that they reside in LIHTC funded housing.

Some specific protections can be found in the property's Restricted Covenant Agreement.



This can be accessed by contacting your allocating agency or through your county's recorder of deeds.



Learn about protections for survivors of domestic and sexual violence by checking out *"Protections Delayed: State Housing Finance Agency Compliance with the Violence Against Women Act."*

Legal Advocacy for Low-Income Housing Tax Credit Tenants



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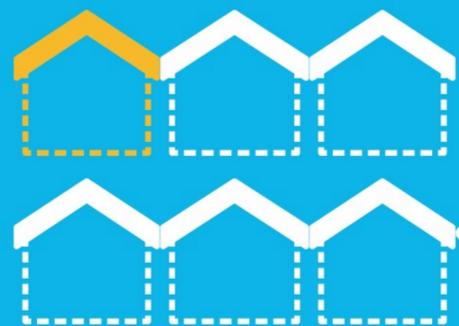
Contact your state allocating agency to learn more about what tools are available to protect LIHTC tenants.

Serious noncompliance can result in the loss of tax credits, creating serious financial difficulties for the property manager, owners, and investors.

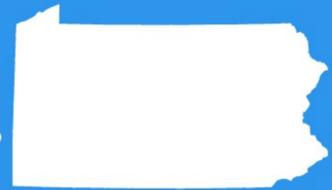


Tenants and their advocates can report violations to the state allocating agency, which monitors compliance for LIHTC developments.

Low-Income Housing Tax Credits are the largest funding source for the creation of affordable housing.



The allocating agency adopts a **Qualified Allocation Plan (QAP)** which reflects federal regulations and state priorities for housing development.



The QAP often covers:

-  Geographic Priorities
-  Sustainability
-  Community Impact
-  Transportation
-  Supportive Services
-  And more! It can cover almost anything.

Stakeholders can comment on the QAP to make sure your community's needs are considered.



Advocacy for Your Community Using the Qualified Allocation Plan



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RHLS used QAP advocacy to increase available tax credits for projects supporting vulnerable populations.



Check out how we did it.



Check out the current QAP and mark your calendar for the next commenting period.



Talk to your allocating agency about the best way to get involved in the process.

Even minor changes to the QAP can have a huge impact.



Gather your allies. Your feedback will have a bigger impact with multiple voices.

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Qualified Allocation Plans

A Qualified Allocation Plan (QAP) is the mechanism by which a state housing finance agency promulgates the criteria by which it will select to whom it will award tax credits. Each state must develop a QAP. The QAP also lists all deadlines, application fees, restrictions, standards and requirements.

A QAP may contain either preferences or set-asides in order to ensure that its priorities are met. With preferences, a housing finance agency awards extra points when scoring applications to proposals that meet certain desired characteristics. Set-asides are funds specifically allocated to certain kinds of projects.

Three mandatory preferences are:

- projects serving the lowest income tenants
- projects obligated to serve qualified tenants for the longest periods
- projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan. 26 U.S.C. §42(m)(1)(B)(ii).

Furthermore, a QAP must, by statute, include the following eight selection criteria:

- project location
- housing needs characteristics
- project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan
- sponsor characteristics
- tenant populations with special housing needs
- public housing waiting lists
- tenant populations of individuals with children
- projects intended for eventual tenant ownership. 26 U.S.C. §42(m)(1)(C)(i)-(viii).

QAPs must be updated on an annual basis, after a public hearing that has been properly noticed. A copy of a state's QAP is available online. While federal statutes mandate that QAPs include certain preferences and set-asides, the state may include additional criteria as needed. Advocates can engage in the QAP process to ensure that additional priorities are added. For example, an advocate could push for the QAP to favor proposed LIHTC projects that would preserve affordable housing, projects that would be available to formerly incarcerated individuals, or projects that serve rural communities.

Materials

[National Low Income Housing Coalition, the QAP, A Potential Tool in the Affordable Housing Preservation Toolbox](#)

This February 2007 publication by the National Low Income Housing Coalition lists practical tips on how to ensure your state's QAP will preserve affordable housing.

[HUD Policy Development & Research, Analysis of State Qualified Allocation Plans for the Low-Income Housing Tax Credit Program](#)

This May 2002 publication put forth by HUD's research arm analyses state QAPS and discusses common characteristics and practices.

Links

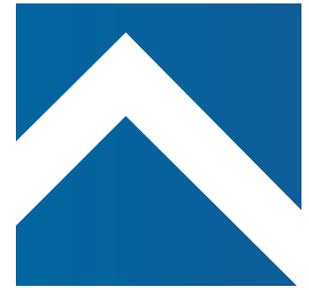
[California Tax Credit Allocation Committee, Qualified Allocation Plan](#)

You should be able to find your own state's QAP online.

Search this site:

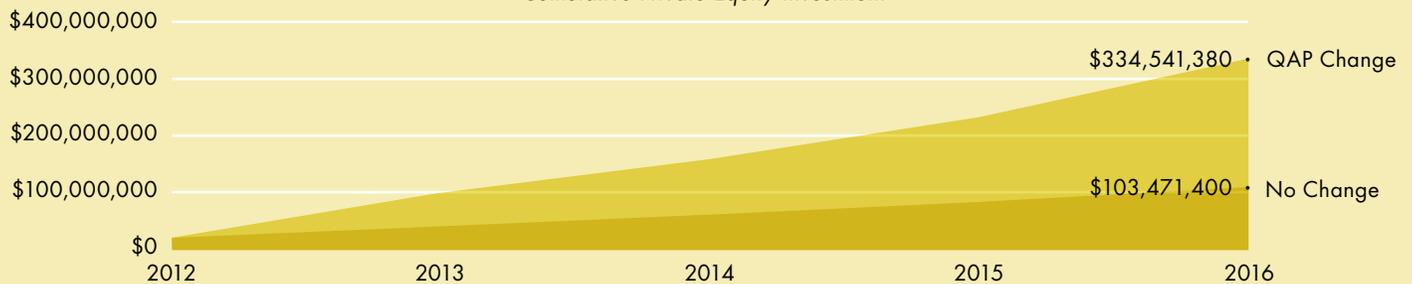
Search

RHLS Advocacy for Supportive Housing for Vulnerable Populations



Increase in Private Equity for LIHTC Supportive Housing

Cumulative Private Equity Investment



Low Income Housing Tax Credits (LIHTCs) are a federal tax credit subject to rules created at both the federal and state levels. The state-level provisions are embodied in the **Qualified Allocation Plan (QAP)**, developed annually by the Pennsylvania Housing Finance Agency (PHFA). The QAP reflects the state's funding priorities and also include provisions concerning how LIHTC-funded properties must be operated.

LIHTCs are essential to the creation and preservation of housing for vulnerable populations, who have significant needs that traditional housing models cannot address. Vulnerable populations need additional services and have low or extremely low incomes, making significant long-term subsidy essential. LIHTCs have become the primary financing mechanism for affordable housing in the United States. Although LIHTCs are rarely the only financing they are usually one of the largest pieces of the financial puzzle.

Photo: James Widener Ray Homes, a 53-unit, permanent supportive housing residence for adults in Philadelphia.

In the United States, households with extremely low incomes (ELI) face a shortage of safe, decent, affordable housing. For those needing additional support the need is even more dire. RHLS has acted as a leader by working to increase supportive funding for housing in Pennsylvania.

RHLS coordinated the efforts of ACTION-Housing, Project HOME and foundation partners, including the Jon Bon Jovi Soul Foundation, the Connelly Foundation, The Heinz Endowments, the Middleton Partnership, and The Pittsburgh Foundation to advocate for changes to the Low Income Housing Tax Credits (LIHTCs) allocation process. The effort was successful. Pennsylvania made a number of key changes to its Qualified Allocation Plan (QAP) that is helping to increase the development of supportive housing for vulnerable populations, including:

- There is no longer a cap on the number of residents in a development that can receive supportive services;
- There is no longer a cap on the LIHTC allocation that can be made to supportive housing developments;
- There is now a preference for supportive housing which has tripled the number of supportive housing developments funded each year (from 1-2 per year to 7 per year); and
- There is now a 130% basis boost for supportive housing developments, which could mean up to \$3 million additional in investor contributions per development, which further eases the financial challenges associated with developing supportive housing.

RHLS-Led Advocacy Results in Tripling Annual LIHTC Awards for Vulnerable Populations

Year	Units Funded through QAP	LIHTC Reserved	Percentage of All LIHTCs	Approximate Equity Amount
2012	139	\$2,069,428	7%	\$20,694,280
2013	384	\$7,908,735	22%	\$79,087,350
2014	276	\$6,278,265	17%	\$62,782,650
2015	333	\$7,219,612	20%	\$72,196,120
2016	446	\$9,782,449	24%	\$99,780,380 ¹

28%
of rental households
in PA are ELI²

\$20,389
maximum income
for a family of four in PA²

The Critical Need for Supportive Housing

Certain vulnerable populations with special needs are likely to be identified as ELI, including:

- Youth aging out of foster homes;
- Chronically homeless individuals with substance and mental health problems.

Given the extremely low incomes typical of vulnerable populations with special needs, housing targeted at these populations must be affordable at 30% of AMI or less. Unfortunately, most of the affordable housing being built in the United States is not affordable to these households.

In Pennsylvania in 2012, about 83% of ELI renter households spent more than 30% of their income on housing and 71% spent more than 50%. There are, however, emerging models for combining federal programs designed to fund construction with federal rental subsidies in a way that increases housing opportunities for vulnerable populations with special needs.

Developers Should Take Advantage of the Changes in the QAP

The changes to Pennsylvania's QAP make it easier for affordable housing developers to build projects that are affordable to ELI households and contain supportive services, which many of them need. Developers who are interested in providing housing for ELI households should seriously examine the new opportunities created by the recent changes to the QAP.

To learn more about how to apply for LIHTC for your next development, please visit www.phfa.org/developers/developer/lihtc.aspx

If you are a nonprofit organization looking for legal assistance for your affordable housing project focused on ELI households and/or on creating supportive housing, you can contact RHLS at www.rhls.org/request-services

RHLS's work on this initiative was possible due to the generous support of the Oak Foundation, Connelly Foundation, the Pittsburgh Foundation, the Independence Foundation, the Philadelphia Foundation, and United Way of Greater Philadelphia and Southern New Jersey.

1. The estimated equity amount in 2016 was calculated using a slightly higher rate, which reflects a change in the market for LIHTCs.
2. National Low Income Housing Coalition, 2014 State Housing Profile, <http://nlihc.org/sites/default/files/2014-SHP-PA.pdf>



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You can pick any of these choices. Unless the abuser also produces similar proof, a landlord cannot make you choose any particular kind of proof or more than one type. The landlord must give you at least 14 business days (weekends and holidays do not count) to provide proof of the violence.

8. What happens if the abuser also submits a certification claiming that he or she is a victim?

If the landlord receives proof from the abuser claiming that they are the victim, then the landlord may require you to submit additional proof to show that you are a victim.

9. Can a landlord share the information I provide about the abuse with others?

No, except in limited cases. The housing authority or landlord cannot give the information you provide about the abuse to others. The information may be shared only if you agree in writing, if it is needed to evict the abuser from the housing, or if the disclosure is required by law.

10. Does this mean that a victim of domestic violence, dating violence, sexual assault, or stalking cannot be evicted at all?

No. You can still be evicted for serious or repeated lease violations that aren't related to the abuse. The housing authority or landlord must hold you to the same standard as other tenants. The landlord also may be able to evict if there is a real and immediate threat to other tenants if you are not evicted. **If you receive any type of eviction notice, call a legal aid office immediately.**

11. Is the housing authority or landlord required to tell me about VAWA's housing protections?

Yes. VAWA requires each housing authority or landlord to tell all applicants and tenants of VAWA's housing protections. The notice must be given along with the VAWA self-certification form mentioned in Question 7 at the time an applicant is denied housing or assistance, at the time an applicant is admitted to housing, or when a tenant is notified of eviction or termination. This notice must be in multiple languages.

12. How does VAWA affect other state or local laws that might protect me?

VAWA is a federal law. However, it does not impact state or local laws that provide more protections for victims of abuse.

13. Who can help me?

Contact an attorney, domestic violence agency, or fair housing agency to see if VAWA can help you.



Know Your Rights: Domestic and Sexual Violence and Federally Assisted Housing

The Violence Against Women Act

Are you a victim of domestic violence, dating violence, sexual assault, or stalking?

Do you live in federally assisted housing?

A law called VAWA, the Violence Against Women Act, may help you.

February 2017

The Rights of Domestic and Sexual Violence Victims Applying for and Living in Federally Assisted Housing

1. What is VAWA?

The Violence Against Women Act (VAWA) is a law that protects victims and threatened victims of domestic violence, dating violence, sexual assault, and stalking from being discriminated against by certain housing providers because of the abuse committed against them.

2. Am I covered by VAWA's housing protections?

VAWA protects victims and threatened victims of domestic violence, dating violence, sexual assault, and stalking. You don't have to be married to or living with the abuser to be protected by VAWA.

VAWA applies to you if you are applying for or are a tenant in any of these programs:

- Public housing;
- Section 8 Housing Choice Voucher program;
- Section 8 project-based housing;
- Section 202 housing for the elderly;
- Section 811 housing for the disabled;
- Section 236 multifamily rental housing;
- Section 221(d)(3) Below Market Interest Rate;
- HOME;
- Housing Opportunities for Persons with AIDS (HOPWA);
- Housing Trust Fund;
- McKinney-Vento Act homeless programs;
- Rural Development multifamily housing; and
- Low-Income Housing Tax Credit (LIHTC) housing.

3. Does VAWA apply to private, market-rate housing?

No. VAWA does NOT cover private housing that does not receive federal assistance. The rights described in this flyer apply only to the above-listed federal housing programs. However, there may be laws in your state or city/town/county that protect victims in market-rate housing. You can contact your local legal aid office or domestic and sexual violence agency to see if there are state and local laws that protect you.

4. How does VAWA protect me?

If you are a victim of domestic violence, dating violence, sexual assault, or stalking:

- You can't be denied admission or federal rental assistance just because you are or have been a victim or a threatened victim.
- You can't be evicted or lose your federal rental assistance just because you are or have been a victim or a threatened victim.
- You can't be denied admission or rental assistance, evicted, or lose your subsidy for reasons related to the abuse, such as bad credit history and criminal history.

5. What if I need to get the abuser out of the home?

If someone living in your home uses violence against you, the housing authority or your landlord may evict the abuser, and let you, your family, and other household members stay in the home. If you are not listed as head of household or your name is not on the rental assistance, then you generally have 90 days or until the end of the lease to establish eligibility for that subsidy or another housing subsidy, or to find new housing.

6. What if I need to move to escape the abuse?

If you have a Section 8 voucher, you can move for reasons related to the abuse and keep your voucher — even if your lease has not ended.

Housing authorities and landlords must adopt emergency transfer plans by June 14, 2017 that allow transfers to other federally assisted housing that is available and safe. You are allowed to transfer if you ask your landlord and reasonably believe you are about to be hurt by more abuse, or if you have been a victim of sexual assault that occurred on the property up to 90 days before the request. If your landlord does not have an emergency transfer plan, contact your local legal aid office or domestic and sexual violence agency.

7. How do I prove that I can use VAWA's protections?

The housing authority or your landlord may ask for documentation showing that you are a victim of domestic violence, dating violence, sexual assault, or stalking. The housing provider must make this request in writing. There are three ways to show that you are a victim:

1. Complete a self-certification form. The form will ask for: your name; name of your abuser (if known and safe to provide); abuser's relationship to you; the date, time and place of the violence; and a description of the violence. To get the form, call the housing authority or a legal aid office.
2. Provide a letter signed by a victim service provider (such as a domestic or sexual violence counselor), attorney, or a medical or mental health professional who has helped you with the abuse. You must also sign this letter.
3. Provide a police report, court record (such as a protective or restraining order), or administrative record.

LIHTC Database: List of LIHTC-Allocating Agencies Providing Data for the LIHTC Database and their Web Addresses

Agency Name	Agency Web Address
Alabama Housing Finance Authority	http://www.ahfa.com
Alaska Housing Finance Corporation	http://www.ahfc.state.ak.us
Arizona Department of Housing	http://www.housingaz.com
Arkansas Development Finance Authority	http://www.state.ar.us/adfa
California Tax Credit Allocation Committee	http://www.treasurer.ca.gov/ctcac
Colorado Housing and Finance Authority	http://www.colohfa.org
Connecticut Housing Finance Authority	http://www.chfa.org
Delaware State Housing Authority	http://www.destatehousing.com/
District of Columbia Housing Finance Agency	http://www.dchfa.org
District of Columbia Department of Housing and Community Development	http://www.dhcd.dc.gov
Florida Housing Finance Corporation	http://www.floridahousing.org
Georgia Department of Community Affairs	http://www.dca.state.ga.us
Guam Housing and Urban Renewal Authority	http://www.ghura.org/
Housing and	http://www.hcdch.state.hi.us

Community Development Corporation of Hawaii	
Idaho Housing and Finance Association	http://www.ihfa.org
Illinois Housing Development Authority	http://www.ihda.org
City of Chicago Department of Housing	http://www.cityofchicago.org/city/en/depts/dcd.html
Indiana Housing and Community Development Authority	http://www.state.in.us/ihfa
Iowa Finance Authority	http://www.ifahome.com
Kansas Housing Resources Corporation	http://www.kshousingcorp.org/
Kentucky Housing Corporation	http://www.kentuckyhousing.org
Louisiana Housing Finance Agency	http://www.lhfa.state.la.us
Maine State Housing Authority	http://www.mainehousing.org
Maryland Department of Housing and Community Development	http://www.dhcd.state.md.us
MassHousing	http://www.mhfa.com
Massachusetts Dept. of Housing and Community Development	http://www.state.ma.us/dhcd
Michigan State Housing Development Authority	http://www.michigan.gov/mshda
Minnesota Housing Finance Agency	http://www.mnhousing.gov/
Local Sub-	http://www.mnhousing.gov/idc/groups/multifamily/documents/document/mhfa_006404.pdf

Allocators in Minnesota	
Mississippi Home Corporation	http://www.mshomecorp.com
Missouri Housing Development Commission	http://www.mhdc.com
Montana Department of Commerce, Board of Housing	http://housing.mt.gov
Nebraska Investment Finance Authority	http://www.nifa.org
Nevada Department of Business and Industry - Housing Division	http://nvhousing.state.nv.us
New Hampshire Housing Finance Authority	http://www.nhhfa.org
New Jersey Housing and Mortgage Finance Agency	http://www.state.nj.us/dca/hmfa
New Mexico Mortgage Finance Authority	http://www.nmmfa.org
New York State Division of Housing and Community Renewal	http://www.nyshcr.org/Agencies/DHCR/
New York State Housing Finance Agency	http://www.nyshcr.org/Agencies/HFA/
City of New York, Dept. of Housing Preservation and Development	http://www.nyc.gov/html/hpd
Development Authority of the North Country (New York)	http://www.danc.org
North Carolina Housing Finance Agency	http://www.nchfa.com
North Dakota	http://www.ndhfa.state.nd.us

Housing Finance Agency	
Ohio Housing Finance Agency	http://www.ohiohome.org/
Oklahoma Housing Finance Agency	http://www.ohfa.org
Oregon Housing and Community Services	http://www.oregon.gov/OHCS/pages/index.aspx
Pennsylvania Housing Finance Agency	http://www.phfa.org
Puerto Rico Housing Finance Corporation	http://www.gdb-pur.com/
Rhode Island Housing	http://www.rihousing.com
South Carolina State Housing Finance and Development Authority	http://www.sha.state.sc.us
South Dakota Housing Development Authority	http://www.sdhda.org
Tennessee Housing Development Agency	http://www.state.tn.us/thda
Texas Department of Housing and Community Affairs	http://www.tdhca.state.tx.us
Utah Housing Corporation	http://www.utahhousingcorp.org
Vermont Housing Finance Agency	http://www.vhfa.org
Virgin Islands Housing Finance Authority	http://www.vihfa.gov/
Virginia Housing Development Authority	http://www.vhda.com
Washington State Housing Finance Commission	http://www.wshfc.org
West Virginia	

Housing Development Fund	http://www.wvhdf.com
Wisconsin Housing and Economic Development Authority	http://www.wheda.com
Wyoming Community Development Authority	http://www.wyomingcda.com

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Problems or questions? Contact Michael.K.Hollar@hud.gov.