Form #: AHAP-025-P

Affordable Housing Assistance Program
Program Guide
Production Credits

INDEX

I. Key Information 2
II. Application Process 9
III. Reservation Process 14
IV. Increase Request Process 16
V. Donation Process 17
VI. Allocation Process 20
VII. Transfer Process 21
VIII. Compliance Process 22
IX. Agency Documentation 25
X. Timeline 26
XI. Index of Forms 27

I. Key Information

The Missouri Affordable Housing Assistance Program ("AHAP") housing production credit is used as an incentive for Missouri businesses and/or individuals to participate in affordable housing production. This state tax credit is earned by an eligible donor for the donation of cash, equity, services, or real or personal property to a non-profit community-based organization for the purpose of providing affordable housing assistance activities or market rate housing in distressed communities. The AHAP credit is governed by Missouri Revised Statutes 32.105, 32.111, 32.112, 32.115, 32.120, and 32.125.

AHAP Tax Credit

The AHAP tax credit is a one-time credit that may be allocated to an eligible donor ("Donor") for up to 55 percent of the total value of an eligible donation. The credit is fully transferable and may be carried forward for a period of ten years. The credit may be applied dollar-for-dollar against liability for Missouri corporate income tax, individual income tax, franchise tax, financial institution tax, gross premium receipts tax, and gross receipts tax. There are two types of AHAP tax credits: Production credits and Operating Assistance credits (please see the AHAP Program Guide-Operating Assistance Credits form AHAP-025-O for details). Agencies may receive reservations of credits in multiple years.

Eligible Donor

To be eligible, a Donor must be subject to Missouri tax from business activities performed in the state of Missouri. Employees of the non-profit who has been allocated AHAP tax credits are not eligible to make donations for AHAP credits. However, they are eligible to receive AHAP tax credits through the transfer process. More specifically, a Donor must be classified as one of the following:

- A corporation filing Missouri Form 1120
- A sole proprietorship filing Federal Form 1040 Schedule C and Missouri Form 1040;
- A farm operation filing Federal Form 1040 Schedule F and Missouri Form 1040;
- An individual reporting income from rental property or royalties on Federal Form 1040 Schedule E and filing Missouri Form 1040;
- A small business corporation (S-Corporation) filing Missouri Form 1120S;
- A partnership filing Missouri Form 1065;
- A bank, credit institution, savings and loan association, credit union, farmer's cooperative credit association, or building and loan association filing a Missouri financial institution tax return;
- An insurance company filing a Missouri Insurance Tax Return with the Division of Insurance;
- An individual partner in a partnership or shareholder in an S-Corporation; or
- A public or private foundation subject to Missouri tax. The foundation must certify that it is subject to the state income tax imposed by the provisions of chapter 143 RSMo because the unrelated business income of the foundation is subject to Missouri income tax.

Donors may apply the AHAP tax credit against:

- The corporation franchise tax in Chapter 174 RSMo;

- The State income tax in Chapter 143 RSMo;
- The annual tax on gross receipts of express companies in chapter 153 RSMo;
- The tax on banks determined under subdivisions (1) or (2) of subsection 2 of RSMo 148.030;
- The tax on other financial institutions in Chapter 148 RSMo; or
- The annual tax on gross premium receipts of insurance companies in Chapter 148 RSMo.

Eligible Donation

Donations may be in the form of cash, stock, real estate, professional services, or materials/products and must be eligible for the federal income tax charitable deduction. The donation must be made to an eligible non-profit agency which has received a reservation of AHAP credits from MHDC (see section II. Application Process). To allocate the credit, MHDC requires supporting documentation evidencing the receipt and value of the donation and a certification form executed by the Donor and the agency. MHDC reserves the right to request additional information. To be eligible, donations must be received on or after the date of reservation and prior to the deadline outlined in the reservation letter. Donations submitted for AHAP tax credits are prohibited from receiving tax credits from other tax credit programs for the same donation.

Eligible Non-Profit Agency

In order to qualify for the AHAP credit, the donation must be made to a non-profit community-based agency ("Agency") performing community services or economic development activities in the state of Missouri and classified as one of the following:

- An organization holding a ruling from the IRS that it is exempt from income taxation pursuant to provisions 501(c)3, 501(c)4, or 501(c)6 of the Internal Revenue Code;
- An organization incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355 RSMo; or
- An organization that is designated as a community development corporation by the US government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964.

Commission Approval of Production Credits

Commission review and approval for AHAP credits shall be required when developments not originally approved to receive a reservation of AHAP credits as part of an initial Rental Production program application for low-income housing tax credits and/or loan funds request a reservation of AHAP credits at a subsequent stage in the development process. Whether or not an AHAP credit request is indicated in the Rental Production application, the Applicant must still submit and AHAP application on form AHAP-100 to officially request a reservation of AHAP credits in the fiscal year in which the donation is projected to occur.

The commission must also approve all applications requesting a reservation of more than $1 million in AHAP credits. Commission approval is also necessary for applications from agencies which have requested a cumulative total of more than $1 million in AHAP credits within a fiscal year.

Production Credits

Production credits are allocated to Donors who provide eligible donations to Agencies for the following affordable housing assistance activities:

- Acquisition
- Acquisition/rehabilitation
- Rehabilitation only
- New construction
- New construction/rehabilitation
- Rental assistance

Agencies may apply the donation directly to these activities, provide it as a capital contribution to properties in which it has an ownership interest, or grant or loan it to developments as a third party. The Agency must demonstrate need, feasibility of the proposed development, leverage of additional funding sources, and reasonable timeline for the donation transaction. Donations may be received from one or multiple donors and apply to rental or homeownership developments.

Production credits may be requested at any time from September 1 through April 30 with opportunity to increase a reservation based upon need and the availability of credits. This deadline may be extended at the sole discretion of MHDC based upon the availability of funds. Production credits are available annually in the amount of $10 million.

- **Production Credits for Acquisition**
  An owner of a property may receive Production credits for the donation of all or a portion of the value of a property calculated as the difference between the fair market value and the loan balance. The maximum amount of AHAP tax credits that may be allocated for the donation of real estate is capped at $10,000 per unit. MHDC may in its sole discretion approve an allocation of credits exceeding this maximum. Credits will be allocated upon the completion of the transaction and submission of the executed settlement statement, documents evidencing fair market value and sales price and the recorded restriction agreement described below. Restrictions will be placed upon the property for a period of ten years from the transfer of the property. The donated property must be utilized for affordable housing activities and half of the project's units must be AHAP units.
- **Production Credits for Acquisition/Rehabilitation, Rehabilitation, New Construction, and New Construction/Rehabilitation**
  Donations may be a source of funding, professional services or materials applied to a specific construction activity or the entire scope of work. Credits will be allocated after the donation is funded to the development at a finance closing, through a draw payment, at the arrival of donated materials, or at the completion of donated work, as well as the submission of documents evidencing the donation, its eligibility and receipt and the recorded restriction agreement described below. Restrictions will be placed upon the property for a period of ten years from construction completion as described below.
- **Rental Assistance**
  Donated funds may be set aside to be provided to income-qualified residents for monthly rental assistance. It may not be utilized for households already receiving rental assistance through HUD, USDA-RD, or other resident assistance programs. Properties receiving rental assistance must demonstrate occupancy challenges and confirm that current rents

are not excessive. The Agency administering the rental assistance funds must submit to MHDC a description of the affordable housing rent subsidy program. This Rental Assistance Action Plan must document the following: the Agency's tenant selection criteria; the neighborhood to be served; the number of persons to be served; the time period for which a person or family shall have a rent subsidy provided; why the program is needed; the estimated amount to be invested in the program; the plans for implementing and monitoring the subsidy program; all other subsidies that will be received or that have been requested to enhance the program.

In major metropolitan areas (Kansas City, St. Louis, Springfield, St. Joseph, Columbia and Jefferson City), rental assistance will be based upon the difference between the rent charged and the prevailing market rent for each unit type up to a maximum payment of $125/month; in all other areas monthly rental assistance is calculated as the difference between gross rent (unit rent plus tenant-paid utilities) and 30% of the household income up to a maximum of $125. MHDC at its sole descression reserves the right to allow rental assistance payments to exceed the maximum.

The Agency administering the assistance must set up a separate bank account to be utilized solely for the distribution of rental assistance. Any bank charges or Agency administration fees are not allowed to be paid by the donated funds or interest earned on those funds. The owner or manager of the property receiving the assistance must provide the Agency with the initial income certification and subsequent annual re-certifications for each new resident receiving rental assistance. To receive the rental assistance payment, the owner or manager must submit monthly to the Agency a list of residents benefiting from the assistance and a calculation of the assistance to be provided for each. Owners of developments in major metropolitan areas must submit documentation to MHDC annually for as long as funds are available to confirm or adjust the amount of rental assistance based upon the property's operating budget and current market conditions. Restrictions shall be placed upon the property for as long as rental assistance funds are available.

Affordable Housing Assistance Activities and Restrictions

Affordable housing assistance activities include the construction or rehabilitation of affordable housing units or rental assistance for residents of affordable housing units. Income and rent/housing payment restrictions apply to units assisted by the AHAP credit and are set forth in a land use restriction agreements ("LURA") recorded upon the property. AHAP-assisted units must comply with the following restrictions:

- *Income Limit*
  Affordable housing rental units assisted by the AHAP credit must serve households with incomes equal to or less than 50% of the median family income for the geographic area in which the unit is located or the statewide median family income, whichever is greater, adjusted for household size. Affordable housing units that are owner occupied must serve households with incomes equal to or less than 100% of the median family income for the geographic area in which the unit is located or the statewide median family income, whichever is greater, adjusted for household size. Owner-occupants must be income eligible during the preceding two years and at the time of the initial purchase

contract. This income restriction also applies to subsequent purchasers of a home assisted by AHAP during the restriction period. Income must be calculated using the methods described in the HUD handbook – Section 4350.3 Rev 1 Chapter 5. You must also include anticipated income. These are the same guidelines used for income calculations for LIHTC households. For more clarification on how to determine income, please contact the MHDC compliance department.

- *Rent/Housing Payment Limit*
  The monthly housing cost for the resident of an AHAP-assisted rental unit must not exceed the 50% rent limit as published by MHDC for the monthly rent and tenant-paid utilities (other than telephone). The monthly housing cost for an owner-occupant of an AHAP-assisted unit must not exceed the 50% rent limit as published by MHDC for the gross monthly mortgage payment including casualty insurance, mortgage insurance, and taxes. This restriction is binding upon the initial and subsequent owner-occupants throughout the restriction period.
- *Owner-Occupant Re-sale Restrictions*
  During the period governed by the LURA, the sale of an AHAP-assisted unit by an owner-occupant is restricted to a subsequent owner-occupant who meets the income restriction described above. The sales price shall not increase by more than a 5% annual appreciation of the acquisition price to the original eligible owner at the time the tax credits are first claimed.

Please refer to the MHDC AHAP Program Maximum Income/Maximum Rent chart for applicable income and rent limits.

For multifamily rental housing developments, the number of AHAP-assisted units required is based upon the proportion of the total AHAP donation to the total sources of funds. These units must float among all of the units in a property, thereby avoiding potential stigma attached to specific units.

The LURA shall be a lien on the property for a period of ten years. For projects where there are existing residents the LURA will commence on the date of the recording of the LURA. For new construction projects or unoccupied projects undergoing rehabilitation, the LURA will commence on the date of the certificate of occupancy for the first building available for occupancy in the development. In rare circumstances, an Agency may request the release of the LURA prior to the end of the restriction period by completing form AHAP-450 Release of LURA Request Form. MHDC in its sole discretion has the right to approve or deny the request.

Market-rate Housing in Distressed Communities

A distressed community is defined in RSMo 135.530 and generally describes a municipality or census block group which has a median household income of under 70% of the median household income for the defined area. Distressed communities may be identified at (http://www.missouridevelopment.org/upload/2000censusdistressedcommunitiesentirecities(020206).pdf or http://www.missouridevelopment.org/upload/2000censusblockgroups(020206).pdf). The total amount of tax credits used for market-rate housing in distressed communities shall not exceed 30% of the total amount of all AHAP tax credits authorized.

Legal Employment Practices Certifications

Pursuant to RSMo 285.025, any employer who employs an illegal alien/undocumented worker shall be ineligible for any state-administered tax credit or loan. MHDC, as the administrator of the AHAP tax credit, the Missouri Low-income Housing Tax Credit ("LIHTC"), MHDC Fund Balance loans, and an issuer of tax-exempt bonds allocated by the Missouri Department of Economic Development requires all applicants for these programs to certify their compliance with federal, state, and local hiring laws. Any individual, individual proprietorship, corporation, partnership, firm or association that is found by the director of MHDC to have negligently employed an illegal alien/undocumented worker in this state shall be unable to participation in MHDC's programs for a period of five years following such determination. "Negligent" means that the employer has failed to take the steps necessary to comply with the requirements of 8 U.S.C. 1324a with respect to the examination of an appropriate document or documents to verify whether the individual is an unauthorized alien. The director of MHDC may, in the director's discretion, elect not to bar the employer for a first-time occurrence.

The Agency will be required to certify at application to the above statement, indicating that it employs no illegal aliens in compliance with federal, state and local hiring laws.

Any donor donating services will be required to sign a form AHAP-135 (Affidavit of Worker Eligibility Policy). By completing and signing the form, the donor is attesting that they will not knowingly employ persons who are unauthorized aliens. They also will attest that they will screen all of its employees using E-Verify to ensure that no unauthorized aliens are employed by the donor. As proof, MHDC will require screen shots documenting the donor is an E-Verify registrant.

Recapture

Allocations of AHAP credit shall only be revoked in the event of intentional fraud by the Donor. However, non-compliance during the restriction period may result in penalties (see section VIII. Compliance).

Restriction for Religious Activities

Please note that neither AHAP credits nor any State funds may be used for religious activities or to fund primarily religious entities regardless of the activities performed. Religious organizations may establish separate non-religious entities to conduct eligible affordable housing assistance activities. Each applicant must submit its articles of incorporation and by-laws with the AHAP application to ensure compliance with State law.

General Process

The general process for the successful use of the AHAP tax credit program is described below according to the following steps:

- Application Process
- Reservation Process
- Increase Request Process
- Donation Process
- Allocation Process
- Transfer Process
- Compliance Period
- Agency Documentation

Amendments to This Guide

MHDC has the right to establish additional requirements and make amendments to this guide at any time.

II. Application Process

Applications for AHAP tax credits are executed and submitted by the Agency according to the guidelines and processes below:

1. The application has changed. Therefore, ensure that the current year's application is submitted otherwise the application will be automatically **rejected**. The application can be obtained at the AHAP website http://www.mhdc.com/rental_production/ahap/index.htm.
   Note: There is only one application; however, there are sections devoted solely to either Production or Operating Assistance tax credits based on the need of the Agency.

2. Applicants must submit:
   - **one executed copy** of the application with all required exhibits;
   - **one copy** of the electronic application in Excel format saved onto a CD (ensure the CD is working and virus-free); and
   - a check for the non-refundable application fee of $100.

3. Applicants must respond to each question and request for documentation noted in the application form (AHAP-100) and checklist. Each answer should be brief, self-supporting, and not refer to any other area of the application.

4. Required exhibits include:
   a. $100 non-refundable application fee;
   b. CD including the completed form AHAP-100 application in Excel format;
   c. Executed original copy of the application form AHAP-100;
   d. Non-profit agency information:
      i. Articles of incorporation;
      ii. By-laws;
      iii. Non-profit determination letter (i.e., IRS letter showing tax-exempt status). If the determination letter does not include the Federal Identification number, other proof of the FEIN used in application will be necessary.

      Please **highlight** the section of the articles of incorporation or by-laws that address the organization's purpose in providing affordable housing assistance activities or market-rate housing in distressed communities.
   e. Donor information:
      i. For single-donor proposals, applicants **must** include a letter of intent from the proposed Donor. Such applications submitted without an identified Donor and letter of intent will be considered incomplete applications.
      ii. For multiple-donor proposals, applicants **must** include pledge letters for any known Donors and a plan and timeline for the receipt of donations, capital campaigns, and any further actions to demonstrate that donations will be received in a timely manner.
   f. Audited annual financial statement for the Agency;
   g. Evidence of site control in the form of a purchase option, contract, warranty deed,

or other documentation approved in advance by MHDC for all properties proposed to benefit from the AHAP credit;

h. Legal description of the properties included in item g;
i. Site map depicting the location of the properties (viewed in a several-block area, rather than within the context of the entire city);
j. Documentation supporting the fair market value of the properties, in the form of an appraisal (dated within 6 months of the application date) or the most recent property tax assessment, whichever is most recent;
k. For proposals requesting AHAP credits for the purpose of providing rental assistance to residents, provide the following property-related documentation:
    i. Rental Assistance Action Plan including the following information:
        - The agency's tenant selection criteria;
        - The neighborhood being served;
        - The time period for which a person or family is eligible for rental assistance;
        - A description of why the program is needed;
        - The estimated amount to be invested in the program;
        - The agency's plan for implementing and monitoring the subsidy program; and
        - A list of all other subsidies being provided to the property.
    ii. Rent rolls for the most recent three-month period, including:
        - Resident name;
        - Household size and income;
        - Date of lease;
        - Rent charged;
        - Resident rent amount paid;
    iii. List of comparable properties, including:
        - Property name and location;
        - Total number of units
        - Rent and amenity details;
    iv. Current operating budget; and
    v. Most recent audited annual financial statement.

MHDC staff reserves the right to request additional information as needed during the application review process.

5. Submission of the application and all supporting documentation should be sent to:

    Missouri Housing Development Commission
    ATTN: AHAP Department
    3435 Broadway
    Kansas City, MO 64111

6. Production tax credit applications may be submitted at any time throughout the year from September 1 through April 30. This deadline may be extended at the sole discretion of MHDC based upon the availability of credits.

7. For all Production Credit applications, MHDC shall notify the state senator, state representative, and chief elected official of the jurisdiction in which the property is located upon receipt of the application. The elected officials will be offered thirty days to comment on the proposal.

8. Pursuant to the Tax Credit Accountability Act (RSMo 135.800-135.830), staff will contact the Missouri Department of Revenue to determine if any Agency applicant has outstanding tax liability. In the case of outstanding liability, MHDC will notify the Agency and offer it a grace period of two weeks to cure any outstanding obligations. Remaining liabilities thereafter will cause the application to be rejected.

9. MHDC will check with the MO Secretary of State to confirm whether the Agency is in "Good Standing."

10. Donations which are eligible for AHAP Production tax credits may not be used for administrative costs incurred by the Agency as a result of applying for and receiving an allocation of AHAP tax credits. Donations may be used to reimburse the Agency for the AHAP application fee and/or reservation fees associated with the AHAP project.

11. MHDC review shall include evaluating proposals according to primary and secondary criteria based upon information available at the time of submission.

    Primary criteria provide a threshold review. Proposals that do not meet one or more of the thresholds shall be rejected; proposals that meet all threshold items shall proceed to secondary criteria to determine the level of recommendation that is merited.

    Primary criteria include: eligibility of the Donor, Agency, and donation; completeness of the application; income qualification of proposed households assisted; proper Agency use of previous AHAP-related donations.

    Secondary criteria fall in three categories:

    <u>Agency Criteria</u>
    Agencies will be assessed on past performance with the AHAP program and all other MHDC programs, the ability to fully utilize reservations, a current list of pledges or plans to obtain donations, and demonstrated financial stability.

    <u>Production Criteria</u>
    Requests for AHAP credits will be evaluated according to feasibility, need, leverage, reasonableness, and timing within fiscal year deadlines. Site control is required; proper zoning is highly encouraged. A minimum set-aside of AHAP assisted units is required; applications that designate additional AHAP-assisted units will receive favorable consideration.

12. Leverage refers to other sources of funds obtained by the Agency for the proposed

development in addition to the donations related to the AHAP request. By leveraging funds Agencies minimize the need for AHAP tax credits, thereby making it possible for MHDC to spread a limited resource among more agencies and developments.

13. For Production credit applications related to the acquisition and/or construction/ rehabilitation of affordable multifamily rental properties, Agencies must indicate the number of AHAP-assisted units in the application. AHAP-assisted units must follow the 50% rent and income restrictions (see Affordable Housing Assistance Activities and Restrictions in section I. Key Information), be representative of all unit types (i.e., comparable number of bedrooms and square footages), and float among all units in a property. The number of AHAP-assisted units will be defined in the LURA at the donation stage.

    For projects related to new construction or rehabilitation, the minimum number of AHAP-assisted units is calculated by applying a percentage to each unit type that is equivalent to the proportion of the total donation amount to total sources of funds. For projects related to the acquisition of a property to be used for affordable housing, 50% of all units within the building(s) must be AHAP units. MHDC encourages Agencies to set aside more than the minimum number of AHAP-assisted units to provide greater affordability to residents.

14. For projects undergoing rehabilitation, in the event any resident(s) of the development are going to be permanently relocated for any reason, the owner shall submit to MHDC relocation plans, procedures and requirements as set forth in Section 523.205 RSMo, as amended.

15. For Production credit applications related to rehabilitation that are not receiving a MHDC allocation of low-income housing tax credits, a physical inspection by MHDC staff of the project to determine the reasonableness of rehabilitation expenses will be required during the application evaluation process. MHDC reserves the right to require a scope of work for projects undergoing rehabilitation. MHDC will also require a final inspection after all rehabilitation work has been completed on the project. The Agency is required to notify MHDC when the project is complete.

16. For Production credit applications related to rental assistance activities, all residents receiving rental assistance from the donated funds must be income-qualified, and the rent charged to their unit must meet rent restrictions (see Affordable Housing Assistance Activities and Restrictions in section I. Key Information). Therefore, the Agency and development are not required to set aside a specific number of AHAP-assisted units.

17. MHDC has the right to accept and reject applications at its sole discretion.

18. The application review period will take about 30 days to complete. Staff will proceed with reservation letters for approved applications or with notification of rejection for applications which are not approved (see section III. Reservation Process).

19. If you experience any issues with the technical aspect of the application (downloading the

application, etc) or after reading the FAQ (Form AHAP-050) you have questions about the information requested in the application, please contact *Gus Metz* either by email gmetz@mhdc.com or via phone (816) 759-6878.

III. Reservation Process

Following the review and approval of successful applications, MHDC shall issue a reservation letter stating the amount of credits reserved and the deadline for obtaining the donation(s).

1. MHDC reserves the right to reserve credits in an amount less than the application request.

2. Agencies receiving a reservation shall be assessed a fee equal to one-half of one percent (½%) of the reservation amount and must be remitted to MHDC no later than ten days after the date of the reservation letter.

3. The reservation letter will detail the amount of credit reserved, the reservation fee required, and the deadline for the receipt of eligible donations. Donations received before the date of the reservation letter are not eligible for AHAP credits. Reservations for Production credits shall be assigned reasonable deadlines based upon the timeline described in the application and the potential of receiving the donation prior to the end of the fiscal year. Agencies may request an extension to the deadline utilizing the Extension Request Form (AHAP-225). MHDC will take into account the reason for the delay, the likelihood of successfully receiving donation(s) by the requested extension date, and the Agency's past performance in fully utilizing its reservations.

4. The Agency shall sign its acceptance of the reservation and return an original copy to MHDC accompanied by the reservation fee. If the Agency rejects the reservation, it should notify MHDC in writing.

5. All donations must be received by the Agency by the corresponding deadline outlined in the reservation letter to be applied to the Agency's tax credit reservation. If the donation is related to professional services, the services must be provided between the dates of the reservation letter and the applicable deadline. Pledges or commitments of any type are not sufficient to satisfy reservation deadline requirements.

6. When an Agency has been unsuccessful in fully utilizing reservations by the prescribed deadline, MHDC shall send a letter of notification to report the amount of reservation recaptured.

7. Agencies with a reservation of Production tax credits tied to multiple donations shall submit a Progress Report (AHAP-200) no later than 30 days prior to the applicable reservation deadline. All Agencies with a reservation of Production tax credits shall be required to submit a Progress Report (AHAP-200) to MHDC within five business days after its reservation deadline to report the final status of eligible donations received as of the close of the reservation period. Failure to file the final report within the prescribed time shall result in the recapture of all AHAP credits that have not been allocated at that date.

8. When a Production tax credit is tied to a real estate closing or another event that will take

place after the reservation deadline, the donation must be made to the Agency in the form of an escrow prior to the deadline to satisfy reservation requirements. The escrow account must be held at a title company in a separate account for the benefit of the agency and governed by an escrow agreement between the Donor, the Agency, and the title company. The agreement must spell out the conditions for the release of the funds to the Agency and the entity authorized to approve its release, which is typically the Donor. The allocation of credits to the Donor shall not occur until the funds are released from the escrow, which must occur prior to the end of the MHDC fiscal year following the fiscal year in which the credits were reserved. Failure to release the escrow by this deadline shall result in the loss of the reservation.

The Agency shall provide MHDC with a copy of the executed escrow agreement and proof the donation has been made and received at the title company prior to the reservation deadline. When conditions of the escrow have been met and the funds have been released, the Agency must provide MHDC with proof from the title company of the release and an executed Tax Credit Certification form (AHAP-125). The title company shall indicate the date the escrow is released and where the funds were directed (i.e., applied to a closing transaction, construction draw, etc.).

9. When an Agency has been unsuccessful in fully utilizing reservations by the prescribed deadline, MHDC shall send a letter of notification to report the amount of reservation recaptured.

IV. Increase Request Process

MHDC desires complete and effective use of the annual allocation of AHAP credits in order to provide assistance to address the greatest needs throughout the state of Missouri. Near the end of the fiscal year (June 30), staff will assess the amount of unallocated credits and potential need.

1. An Agency receiving and successfully utilizing a reservation of Production credits may apply for an additional reservation using the Increase Request Form (AHAP-250) at any time. Reservations that have not been utilized by April 30 and are not extended will be recaptured and made available for final increase requests thereafter. Applicants must identify pledged Donors or demonstrate an action plan to complete donations within the limited time period prior to June 30.

2. A fee of ½% of the increased reservation amount will be due from the Agency within ten days of MHDC's approval of the request.

3. MHDC reserves the right to reserve credits in an amount less than the increase request.

V. Donation Process

Agencies may begin receiving donations eligible for credits on or after the date of the reservation letter issued by MHDC. Please refer to section III. Reservation Process for details about reservation deadlines, status report requirements, potential extensions or recapture of reservations. The AHAP credit cycle is based on MHDC's fiscal year (July 1 – June 30). Imposed deadlines are designed to efficiently utilize all available credits within this timeframe, allowing the final two months to allocate recaptured or unused credits for the use of Agencies demonstrating successful performance with reservations and allocations throughout the current fiscal year. Regardless of the credit type, all eligible donations must be received by June 30 in order to receive an allocation of credits.

1. Agencies are responsible for ensuring that the Donor and the type of donation are eligible (see Donor Eligibility in section I. Key Information). Employees of the non-profit that is applying for AHAP tax credits are not eligible to make donations for AHAP credits. However, they are eligible to receive AHAP tax credits through the transfer process.

2. Donors have until June 30th following the fiscal year in which their donation was made to submit their Tax Credit Certification form. Missouri's fiscal year is from July 1st through June 30th.

3. Once the donation is received, the Agency shall have the Donor complete the Tax Credit Certification form (AHAP-125) which shall be executed by both the Donor and the Agency. The form shall be submitted to MHDC accompanied by proof of the type, amount and date of the donation in a reliable format, including a two-sided copy of the check, stock certificate, invoice, etc. MHDC encourages the filing of this documentation as soon as possible following the donation to facilitate timely recordkeeping and allocation of credits. Agencies can best demonstrate their success in utilizing credit reservations by filing the certification forms and supporting documentation in a timely manner. Please see below for the required documentation for each type of donation.

   - Cash -- Attach a copy of one of the following: front and back of the cancelled check; bank statement showing the check transaction; credit card statement to include name of Donor and pertinent charge; money order; or cashier's check. MHDC reserves the right to request additional documentation.
   - Real Estate -- A copy of the deed, executed settlement statement and appraisal must have already been submitted to MHDC.
   - Professional Services -- Attach copies of documents detailing dates of service, type of service performed and associated fees or value for service (i.e., for labor please indicate the hourly rate and amount of time charged for the service). The value of the services donated must not exceed the amount the Donor charges for similar services to the general public in the ordinary course of the Donor's business. The Donor must also submit a Services Affidavit (AHAP-130) certifying to the appropriateness of the charges and acknowledging the penalty for providing false information, an Affidavit of Worker Eligibility Policy (AHAP-135) and proof that the donating entity is a registrant of E-Verify (for further details, refer to #6 below).

- Materials/Products -- Attach a copy of the invoice or other documentation showing the cost for the product and the name of the Donor. The value of the materials donated must not exceed the amount the Donor charges for similar materials to the general public in the ordinary course of the Donor's business. The Donor must also submit a Services/Materials Affidavit (AHAP-130) certifying to the appropriateness of the charges and acknowledging the penalty for providing false information.
- Stocks -- Attach documentation of the transfer of stocks or bonds from the Donor to the Agency, indicating the name of the securities, number of shares, date of transfer and market value on the date of the transfer. Documentation by brokerage statement must include the Donor's name. MHDC calculates the value of stock donations based on the transfer date (this may be different from the date the stock is sold by the agency) and based on the average high and low price on the transfer date.

4. Evidence of ownership of the site is required in the form of a warranty deed or owner's title policy.

5. Donations of equipment or materials may not be stored at an off-site location.

6. For donations of services, the donor will be required to sign a form AHAP-135 (Affidavit of Worker Eligibility Policy). By completing and signing the form, the donor is attesting that they will not knowingly employ persons who are unauthorized aliens. They also will attest that they will screen all of its employees using E-Verify to ensure that no unauthorized aliens are employed by the donor. As proof, MHDC will require screen shots documenting the donor is an E-Verify registrant.

7. For donations of property under the Production credit program (acquisition applications), the Tax Credit Certification form must be accompanied by an appraisal reflecting the fair market value of the property and the settlement statement from the transfer of the real estate demonstrating the sale price. The appraisal must be prepared by an independent licensed third-party appraiser unaffiliated with either the seller or the purchaser and dated within six months of the sales transaction. MHDC will evaluate the appraisal and reserves the right to require the Agency to order a second appraisal, or MHDC will order its own appraisal at the expense of the Agency. The amount of the donation is based upon the difference between the fair market value and the actual proceeds.

8. When there is an identity of interest between the Donor and the Agency or the property(ies) receiving the benefit of the donation, MHDC reserves the right to request the Tax Credit Certification form be accompanied by an opinion from a tax attorney on the eligibility of the donation as a charitable contribution for federal tax purposes.

9. Donations which are eligible for AHAP Production tax credits may not be used for administrative costs incurred by the Agency as a result of applying for and receiving an allocation of AHAP tax credits. Donations may be used to reimburse the Agency for the AHAP application fee and/or reservation fees associated with the AHAP project.

10. A Land Use Restriction Agreement ("LURA") shall be prepared by MHDC on or about the date of donation. If multiple donations are received, the LURA shall be prepared upon receipt of documentation of the first donation. The LURA shall restrict the use of the property for a period of ten years as follows:
    a. For multifamily rental properties, income and rent limits shall apply to all AHAP-assisted units quantified in the LURA.
    b. For single-family for-sale properties, income limits and affordability of mortgage payments shall apply to the initial and subsequent buyers of the homes, and a cap on the sales price shall apply.
    c. For emergency shelters or transitional housing units, the property shall be restricted to the affordable housing assistance activities to be provided to the target population as described in the application.
    d. For properties utilizing the donated funds as rental assistance, the LURA shall restrict the property to provide rental assistance to residents qualifying at the income restrictions noted previously until the rental assistance fund is depleted.

    If the same property receives additional credits in succeeding years, the LURA shall be amended as needed to extend the restriction period or increase the number of AHAP-assisted units or a new LURA may be placed upon the property.

    If the LURA states that its effective date is the date the first certificate of occupancy (CO) is issued on the project, the Agency must provide the CO to MHDC immediately after receiving it. MHDC will then notify the Agency of the date the LURA's 10 year compliance period is considered to commence.

11. The LURA will be sent to the Agency for signature along with specific processing instructions. The Agency must sign the LURA, have it notarized and return it to MHDC with a check in the amount requested by MHDC for the recording fee. After the LURA is recorded and returned to MHDC by the recorders office, MHDC will forward a copy to the Agency.

VI. Allocation Process

Once MHDC has received documentation that a donation has been made, it will review the paperwork for eligibility, accuracy and completeness and conclude the allocation process.

1. Required documentation includes:
   - Completely executed Tax Credit Certification form (AHAP-125);
   - Proof of donation in the form of a two-sided copy of the check, stock certificate, invoice, etc.;
   - Evidence of ownership of the development site;
   - Escrow Agreement, if applicable (see section III. Reservation Process);
   - Appraisal and settlement statement (donations of property);
   - Attorney's tax opinion (Identity of Interest, see section V. Donation Process); and
   - Recorded LURA forwarded from the Recorder's Office.

2. MHDC shall complete the upper right-hand corner of the Tax Credit Certification form approving the allocation of credit to the listed Donor. The original form shall be sent to the Department of Revenue or the Department of Insurance as applicable for their reference at the time the credit is claimed. MHDC shall also forward copies of the completed form to the Donor and the Agency for their files.

3. If intentional fraud by the Donor is discovered in the application or donation process, any credit allocation made shall be revoked, and the Agency and/or Donor as the case may be shall be barred from future participation in the AHAP process.

VII. Transfer Process

Donors may transfer the allocated credits to any individual or entity upon MHDC's review and approval of the executed Missouri Transfer Form MO-TF (AHAP-275) which provides the details of the transaction. There are no limits on the transfer of credits.

VIII. Compliance Process

All Agencies may be audited at any time to ensure compliance with MHDC guidelines. Compliance requirements extend both to the documentation of receipt/use of donations and to the fulfillment of LURA restrictions.

1. MHDC may request copies of documentation evidencing the receipt and the use of donations for a period of up to 12 months from the end of the fiscal year in which AHAP credits were awarded. MHDC has a right to extend the review period if the donations are part of an extended capital campaign culminating in a construction or similar process that does not proceed immediately upon receipt of donations.

2. For Production credit projects related to rehabilitation or new construction that are not receiving a MHDC allocation of low-income housing tax credits a physical inspection by MHDC staff will be required after all work has been completed on the project. The Agency is required to notify MHDC when the project is complete.

3. MHDC may visit construction sites to verify the status and quality of work.

4. The Agency shall submit a certification of costs on form AHAP-375 following the completion of construction activity funded with AHAP-related donations for properties that are not already submitting a cost certification to MHDC for low-income housing tax credit funding. The cost certification is due within 90 days following construction completion. Cost certifications are not required for Agencies receiving donations related to the donation of real estate or the funding of rental assistance activities. MHDC reserves the right to ask for additional information concerning construction costs.

5. For multifamily rental properties, the owner shall submit to MHDC annually on or before March 31st for each year of the 10-year compliance period an Owner's Certification of Continuing Compliance (AHAP-355) and an Occupancy Report (AHAP-356). The owner shall also complete on or before March 31st for each year of the compliance period a Tenant Income Certification (AHAP-360) and a Unit Certification (AHAP-365). Both the AHAP-360 and AHAP-365 must be retained at the site of the multifamily rental property for possible future review by MHDC.

6. In the case of for-sale properties, the owner shall submit to MHDC within 15 days of closing a Homebuyer Income Certification (AHAP-370) certifying to MHDC that the buyer was income eligible at the time of the initial purchase contract and for the two preceding years. The owner must also submit within 15 days of closing a Home Sale Certificate (AHAP-371) certifying to MHDC that the cost of the unit (mortgage payment including mortgage and casualty insurance and property taxes) is projected to be in compliance with the corresponding rent limits for a household of equal size throughout the period of the LURA. Both of these forms must be signed by the agency and buyer. Any subsequent owner-occupants during the period of the LURA must provide the same certifications upon purchase of the unit. Also, if the home is sold while the LURA is still in effect, both the seller and the buyer must complete a Single Family Notice of Change of Ownership (AHAP-372).

7. For AHAP projects which are not multi-family rental units or for-sale properties (i.e., emergency shelters or transitional housing), the owner shall submit to MHDC on or before March 15th for each year of the compliance period an Agency Affordable Housing Activities Annual Reporting Form (AHAP-350) documenting occupancy, demographic and financial data.

8. For properties utilizing donated funds for rental assistance, the Agency administering rental assistance must submit copies of the following documentation to MHDC on a quarterly basis:
    a. monthly rental assistance request form AHAP-330 (Schedule of Rental Assistance Payments Due);
    b. monthly rental assistance payment check payable to the property from rental assistance funds;
    c. monthly bank statements of the rental assistance account activity; and
    d. initial tenant income certifications and annual re-certifications performed during the previous quarter.

    Owners of developments in major metropolitan areas (Kansas City, St. Louis, Springfield, Columbia, Jefferson City and St. Joseph) must submit the following documentation to MHDC no later than March 31 annually for as long as funds are available to confirm or adjust the amount of rental assistance based upon the property's operating budget and current market conditions:
    a. Form AHAP-325 Rental Assistance Annual Review;
    b. Current rent roll;
    c. Current operating budget;
    d. Most recent audited annual financial statement; and
    e. List of comparable properties.

    Owners of developments outside the metropolitan areas designated above shall complete Rental Assistance Calculation Worksheet (form AHAP-320) for each resident receiving rental assistance when they first begin receiving assistance and at re-certification each year thereafter. Copies of the forms must be submitted to the Agency administering assistance, which will in turn submit the forms to MHDC with the quarterly reporting process.

9. For properties restricted by a LURA, MHDC staff shall periodically visit the properties during its 10-year restriction period and request certifications or documentation demonstrating compliance with the terms of the LURA. Compliance reviews shall concern the physical condition of the property as well as compliance with income, rent and re-sale restrictions as applicable. If a property is found to be out of compliance, MHDC shall send notice to the owner or Agency, whichever is the responsible party, and request a corrective action plan for review and approval. MHDC shall follow the entity's progress toward implementation of an approved plan.

10. Rent increases for multifamily properties must be reviewed and approved by MHDC prior to taking effect. Please refer to the AHAP Compliance Guide for details on the rent increase request process. A rent increase request cannot be made within the first year the LURA is in place.

11. Agencies that are found to be habitually out of compliance with the LURA, have violated MHDC guidelines or refuse to cooperate with MHDC staff shall have their performance recorded for future consideration of AHAP applications or other MHDC programs. Upon the determination that a development is out of compliance with the statute or MHDC guidelines, MHDC may seek injunctive enforcement action against the owner following 150 days' notice thereof, seek legal damages against the owner representing the value of the tax credits, or foreclose on the lien in the LURA as provided in RSMo 32.115.3(4).

12. Agencies must also follow reporting requirements as set forth in the Tax Credit Accountability Act (RSMo 135.800-135.830):
    a. The Tax Credit Accountability Act Reporting Form (AHAP-300) requests information on the Agency, the development receiving the benefit of the donation, the fair market value of the development, the project/actual labor costs, the projected/actual completion date, the neighborhood being served, and the actual number of jobs created as a result of the tax credits separated by part-time permanent and full-time permanent for each month in the fiscal year preceding the date the AHAP-300 is due. For first year reporting the Agency must also complete the Jobs Created Addendum (AHAP-305). This form requests information on permanent jobs created between the time of the first donation for the project and the first month reported in the AHAP-300. The Agency must keep back-up documentation for the fair market value, labor costs, completion date, and permanent jobs created in its files although it is not required to be submitted with the annual report.
    b. The form must be submitted by the Agency to MHDC annually by June 30 for three years following the allocation of AHAP credits. The first report shall not be due sooner than one year following the allocation of credits.
    c. MHDC will make every effort to notify Agencies of the first due date and provide reminders for the two following years. Agencies are responsible for timely filing regardless of assistance from MHDC.
    d. Failure to submit the form or excessive delay may affect the Agency's consideration for future applications for credits.

IX. Agency Documentation

All Agencies are required to keep documentation and record activity regarding the AHAP process for monitoring and audit by MHDC. Files should be kept for a period of ten years following the receipt of the donation. File and accounting requirements are detailed below:

Agency files must include:

- A copy of the executed AHAP application and exhibits;
- The Agency's original copy of the AHAP reservation letter;
- A copy of each Tax Credit Certification form (AHAP-125) with the required back-up documentation as submitted to MHDC (please see section III. Reservation Process and section V. Donation Process);
- For Agencies receiving Production credits, the following will be required based upon the type of production:
    - Acquisition only – appraisal, settlement statement, and warranty deed;
    - Rental assistance – escrow agreement with property receiving assistance, annual income certifications of residents receiving assistance, monthly requests for payment and copies of payment checks, monthly bank statements detailing account activity;
    - Multifamily rental properties – tenant income certifications (AHAP-assisted units), Annual Development Certification of Continuing Compliance, and final certification of costs if required;
    - Single-family for-sale properties – warranty deed, income certification covering the initial and subsequent owner-occupants' income at the time of purchase and two years preceding it, certification of costs for the first year of occupancy, and settlement statements from re-sale events;
    - Emergency shelters/transitional housing – reports of available affordable housing assistance activities and actual count and composition of population served (listed by month) for each year of operation during the restriction period;
- Copies of each of the three years of Tax Credit Accountability Act reporting forms and back-up documentation (i.e., appraisal or annual property tax assessment form, certificate of substantial completion, certification of labor costs from contractor or detailed invoices).

X. Timeline

Notice of Funding Availability Announced:	July 1, 2011
Receive Production Applications:	August 1, 2011 – April 30, 2011
Notice of Reservation:	Within one month of receiving application

MHDC has the sole discretion to extend deadlines appropriate to the administration of the AHAP cycle. Please refer to the Affordable Housing Assistance Program NOFA for specific dates and deadlines.

XI. Index of Forms

The following guides and forms are to be referenced and utilized appropriate to the activity related to the allocation of Production credits. A checked box indicates the guide/form is applicable to the production type according to the following key:

M/F - Multifamily rental properties
E/T - Emergency shelter/transitional housing
S/F - Single-family for-sale properties
R/A - Rental assistance

		M/F	E/T	S/F	R/A
AHAP-050	FAQs	☑	☑	☑	☑
AHAP-075	Notice of Funding Availability	☑	☑	☑	☑
AHAP-100	AHAP Application	☑	☑	☑	☑
AHAP-125	Tax Credit Certification Form	☑	☑	☑	☑
AHAP-130	Services Affidavit	☑	☑	☑	☐
AHAP-135	Affidavit of Worker Eligibility Policy	☑	☑	☑	☐
AHAP-200	Progress Report	☑	☑	☑	☑
AHAP-225	Extension Request	☑	☑	☑	☑
AHAP-250	Increase Request	☑	☑	☑	☑
AHAP-275	Transfer Form (MO-TF)	☑	☑	☑	☑
AHAP-300	Tax Credit Accountability Act Reporting Form	☑	☑	☑	☑
AHAP-305	Jobs Created Addendum	☑	☑	☑	☑
AHAP-320	Rental Assistance Calculation Worksheet (Outside Designated Metropolitan Areas)	☐	☐	☐	☑
AHAP-325	Rental Assistance Annual Review (Designated Metropolitan Areas only)	☐	☐	☐	☑
AHAP-330	Schedule of Rental Assistance Payments Due	☐	☐	☐	☑
AHAP-350	Agency Affordable Housing Activities Annual Reporting Form	☐	☑	☐	☐
AHAP-355	Owner's Certificate of Continuing Compliance	☑	☐	☐	☐
AHAP-356	Occupancy Report	☑	☐	☐	☐
AHAP-360	Tenant Income Certification	☑	☐	☐	☐
AHAP-365	Unit Certification	☑	☐	☐	☐
AHAP-370	Homebuyer Income Certification	☐	☐	☑	☐
AHAP-371	Home Sale Certification	☐	☐	☑	☐
AHAP-372	Single Family Notice of Change of Ownership	☐	☐	☑	☐

AHAP-375	Certification of Actual Costs (waived for LIHTC properties and acquisition-only activities)	☑	☑	☑	☐
AHAP-405	Sample File Checklist - Production	☑	☑	☑	☑
AHAP-450	Release of LURA Request Form	☑	☑	☑	☑