

**WAC 262-01-140 Private activity bond allocation.** (1) Applicants for the commission's portion of the state's private activity bond allocation shall submit a completed application in the form prescribed by the commission and the required application fee by the deadline set by the commission each application round.

(2) As part of its application, each applicant shall demonstrate to the commission's satisfaction that it is ready to proceed with the financing of its project.

(3) In order to qualify to receive an allocation from the commission, a project shall meet the requirements of the code and shall be in compliance with local land-use, zoning and permitting processes. To comply with the code, at minimum, a project shall:

(a) Have:

(i) Twenty percent of the units set aside for individuals whose income is fifty percent or less of area median gross income; or

(ii) Forty percent of the units set aside for individuals whose income is sixty percent or less of area median gross income;

(b) Be available for use by the general public;

(c) Be used on other than a transient basis;

(d) Include separate and complete facilities for living, sleeping, eating, cooking and sanitation;

(e) Have been the subject of a public hearing.

(4) For the purposes of ranking projects and making allocations, the commission will give weight to those projects which, among other things:

(a) Promote the development of affordable housing in underserved areas;

(b) Execute a regulatory agreement with the commission having terms that exceed the minimum code requirement;

(c) Reserve units for special-needs populations;

(d) Preserve federally assisted projects as low-income units;

(e) Have sought and received financial assistance from federal, state or local governments;

(f) Opt to leverage the tax-exempt bonds with other sources of funds including taxable bonds.

(5) As a condition of receiving an allocation, an owner shall enter into a regulatory agreement with the commission, in a form acceptable to the commission, which restricts the use of the project for a period of time and which describes the applicable commitments and covenants made by the owner. The agreement shall be recorded as a restrictive covenant running with the land.

(6) Upon receiving an allocation, an applicant shall pay all required commission fees and comply with all applicable requirements and deadlines. Failure to do so may result in withdrawal of the allocation.

(7)(a) The commission may perform on-site inspections of projects, interview residents, review residents' applications and financial information and review an applicant's or an owner's books and records. The applicant or owner shall provide the commission with all requested documentation, including periodic reports and certificates; shall provide the commission access to the project; and shall retain records as required by the code and the regulatory agreement.

(b) The commission will monitor the projects receiving an allocation to verify compliance with the code and with contractual commitments to the commission. The commission will notify the Internal Revenue Service when instances of noncompliance come to its attention.

(8) Unless the commission makes an exception, a transfer of an interest in a project shall require the prior approval of the commission.

(9) Decisions regarding allocations will be made on behalf of the commission by the director of the capital projects division and will be appealable solely to the executive director of the commission.

[Statutory Authority: RCW 43.180.040(3). WSR 00-06-030, § 262-01-140, filed 2/25/00, effective 3/27/00.]