

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5169-N-01]

Statutorily Mandated Designation of Difficult Development Areas for 2008

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: This document designates "Difficult Development Areas" (DDAs) for purposes of the Low-Income Housing Tax Credit (LIHTC) under Section 42 of the Internal Revenue Code of 1986 (the Code) (26 U.S.C. 42). The United States Department of Housing and Urban Development (HUD) makes new DDA designations annually. The designations of "Qualified Census Tracts" (QCTs) under Section 42 of the Internal Revenue Code published September 28, 2007, remain in effect.

FOR FURTHER INFORMATION CONTACT: For questions on how areas are designated and on geographic definitions, contact Michael K. Hollar, Economist, Economic Development and Public Finance Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8234, Washington, DC 20410-6000, telephone number (202) 402-5878, or send an e-mail to Michael.K.Hollar@hud.gov. For specific legal questions pertaining to Section 42, contact Branch 5, Office of the Associate Chief Counsel, Passthroughs and Special Industries, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone number (202) 622-3040. For questions about the "HUB Zones" program, contact Michael P. McHale, Assistant Administrator for Procurement Policy, Office of Government Contracting, Small Business Administration, 409 Third Street, SW., Suite 8800, Washington, DC 20416, telephone number (202) 205-8885, fax number (202) 205-7167, or send an e-mail to hubzone@sba.gov. A text telephone is available for persons with hearing or speech impairments at (202) 708-9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at (800) 245-2691 for a small fee to cover duplication and mailing costs.

Copies Available Electronically: This notice and additional information about DDAs and QCTs are available electronically on the Internet at <http://www.huduser.org/datasets/qct.html>.

SUPPLEMENTARY INFORMATION:

This Document

This notice designates DDAs for each of the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. The designations of DDAs in this notice are based on final Fiscal Year (FY) 2007 Fair Market Rents (FMRs), FY2007 income limits, and 2000 Census population counts, as explained below. This notice also lists those areas treated as DDAs under the Gulf Opportunity Zone Act of 2005 (GO Zone Act) (Pub. L. 109-135; the GO Zone Act, as amended by the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007). Specifically, the GO Zone Act provides that areas "determined by the President to warrant individual or individual and public assistance from the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)" as a result of Hurricanes Katrina, Rita, or Wilma shall be treated as DDAs designated under subclause (I) of Internal Revenue Code section 42(d)(5)(C)(iii) (i.e., areas designated by the Secretary of Housing and Urban Development as having high construction, land, and utility costs relative to area median gross income (AMGI)), and shall not be taken into account for purposes of applying the limitation under subclause II of such section (i.e., the 20 percent cap on the total population of designated areas). The designations of QCTs under Section 42 of the Internal Revenue Code published September 28, 2006 (71 FR 57234) remain in effect.

2000 Census

Data from the 2000 Census on total population of metropolitan areas and nonmetropolitan areas are used in the designation of DDAs. The Office of Management and Budget (OMB) published new metropolitan area definitions incorporating 2000 Census data first in OMB Bulletin No. 03-04 on June 6, 2003, and has updated them periodically through OMB Bulletin No. 06-01 on December 5, 2005. The FY2007 FMRs and FY2007 income limits used to designate DDAs are based on these new MSA definitions, with modifications to account for substantial differences in rental housing markets (and, in some cases, median income levels) within MSAs.

Background

The U.S. Department of the Treasury (Treasury) and its Internal Revenue Service (IRS) are authorized to interpret

and enforce the provisions of the Internal Revenue Code (the Code), including the LIHTC found at Section 42 of the Code. The Secretary of HUD is required to designate DDAs and QCTs by Section 42(d)(5)(C) of the Code. In order to assist in understanding HUD's mandated designation of DDAs and QCTs for use in administering Section 42, a summary of the section is provided. The following summary does not purport to bind Treasury or the IRS in any way, nor does it purport to bind HUD, since HUD has authority to interpret or administer the Code only in instances where it receives explicit delegation.

Summary of Low-Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low-income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (credit ceiling) is limited by population. Each state is allowed a credit ceiling based on a statutory formula indicated at Section 42(h)(3). States may carry forward unallocated credits derived from the credit ceiling for one year; however, to the extent these unallocated credits are not used by then, the credits go into a national pool to be redistributed to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit. Besides Section 42 credits derived from the credit ceiling, states may also provide Section 42 credits to owners of buildings based on the percentage of certain building costs financed by tax-exempt bond proceeds. Credits provided under the tax-exempt bond "volume cap" do not reduce the credits available from the credit ceiling.

The credits allocated to a building are based on the cost of units placed in service as low-income units under particular minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: either 20 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the Area Median Gross Income (AMGI), or 40 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term "rent-restricted" means that gross rent, including an allowance for utilities,

cannot exceed 30 percent of the tenant's imputed income limitation (i.e., 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low-income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar-for-dollar. It is taken annually for a term of 10 years and is intended to yield a present value of either: (1) 70 percent of the "qualified basis" for new construction or substantial rehabilitation expenditures that are not federally subsidized (i.e., financed with tax-exempt bonds or below-market federal loans), or (2) 30 percent of the qualified basis for the cost of acquiring certain existing buildings or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in Section 42. Individuals can use the credits up to a deduction equivalent of \$25,000 (the actual maximum amount of credit that an individual can claim depends on the individual's marginal tax rate). Individuals cannot use the credits against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credits against ordinary income tax. They cannot use the credits against the alternative minimum tax. These corporations can also deduct losses from the project.

The qualified basis represents the product of the building's "applicable fraction" and its "eligible basis." The applicable fraction is based on the number of low-income units in the building as a percentage of the total number of units, or based on the floor space of low income-units as a percentage of the total floor space of residential units in the building. The eligible basis is the adjusted basis attributable to acquisition, rehabilitation, or new construction costs (depending on the type of LIHTC involved). These costs include amounts chargeable to a capital account that are incurred prior to the end of the first taxable year in which the qualified low-income building is placed in service or, at the election of the taxpayer, the end of the succeeding taxable year. In the case of buildings located in designated DDAs or designated QCTs, eligible basis can be increased up to 130 percent from what it would otherwise be. This means that the available credits also can be increased by up to 30 percent. For example, if a 70 percent credit is available, it effectively could be increased to as much as 91 percent.

Section 42 of the Code defines a DDA as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. All designated DDAs in metropolitan areas (taken together) may not contain more than 20 percent of the aggregate population of all metropolitan areas, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all nonmetropolitan areas.

The GO Zone Act provides that areas "determined by the President to warrant individual or individual and public assistance from the Federal Government" under the Stafford Act by reason of Hurricanes Katrina, Rita, or Wilma shall be treated as DDAs designated under subclause I of Internal Revenue Code section 42(d)(5)(C)(iii) (i.e., areas designated by the Secretary of HUD as having high construction, land, and utility costs relative to AMGI), and shall not be taken into account for purposes of applying the limitation under subclause II of such section (i.e., the 20 percent cap on the total population of designated areas). This notice lists the affected areas described in the GO Zone Act. Because the populations of DDAs designated under the GO Zone Act are not counted against the statutory 20 percent cap on the aggregate population of DDAs, the total population of designated metropolitan DDAs listed in this notice exceeds 20 percent of the total population of all MSAs, and the population of all nonmetropolitan DDAs listed in this notice exceeds 20 percent of the total population of nonmetropolitan counties.

Explanation of HUD Designation Methodology

A. Difficult Development Areas

This notice lists all areas "determined by the President to warrant individual or individual and public assistance from the Federal Government" under the Stafford Act by reason of Hurricanes Katrina, Rita, or Wilma as DDAs according to lists of counties and parishes from the Federal Emergency Management Agency Web site (<http://www.fema.gov/>). Affected metropolitan areas and nonmetropolitan areas are assigned the indicator "[GO Zone]" in the lists of DDAs.

In developing the list of the remaining DDAs, HUD compared housing costs with incomes. HUD used 2000 Census population data and the MSA definitions, as published in OMB Bulletin No. 06-01 on December 5, 2005, with modifications, as described below. In keeping with past practice of

basing the coming year's DDA designations on data from the preceding year, the basis for these comparisons is the FY2007 HUD income limits for very low-income households (Very Low Income Limits, or VLILs), which are based on 50 percent of AMGI, and final FY2007 FMRs used for the Housing Choice Voucher (HCV) program. In formulating the FY2007 FMRs and VLILs, HUD modified the current OMB definitions of MSAs to account for substantial differences in rents among areas within each new MSA that were in different FMR areas under definitions used in prior years. HUD formed these "HUD Metro FMR Areas" (HMFAs) in cases where one or more of the parts of newly defined MSAs that previously were in separate FMR areas had 2000 Census base 40th-percentile recent mover rents that differed, by 5 percent or more, from the same statistic calculated at the MSA level. In addition, a few HMFAs were formed on the basis of very large differences in AMGIs among the MSA parts. All HMFAs are contained entirely within MSAs. All nonmetropolitan counties are outside of MSAs and are not broken up by HUD for purposes of setting FMRs and VLILs. (Complete details on HUD's process for determining FY2007 FMR areas and FMRs are available at <http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr07>. Complete details on HUD's process for determining FY2007 Income Limits are available at http://www.huduser.org/datasets/il/il2007_docsys.html.)

HUD's unit of analysis for designating metropolitan DDAs, therefore, consists of: entire MSAs, in cases where these were not broken up into HMFAs for purposes of computing FMRs and VLILs; and HMFAs within the MSAs that were broken up for such purposes. Hereafter in this notice, the unit of analysis for designating metropolitan DDAs will be called the HMFA, and the unit of analysis for nonmetropolitan DDAs will be the nonmetropolitan county or county equivalent area. The procedure used in making the DDA calculations follows:

1. For each HMFA and each nonmetropolitan county, a ratio was calculated. This calculation used the final FY2007 two-bedroom FMR and the FY2007 four-person VLIL.

- a. The numerator of the ratio was the area's final FY2007 FMR. In general, the FMR is based on the 40th-percentile gross rent paid by recent movers to live in a two-bedroom apartment. In metropolitan areas granted an FMR based on the 50th-percentile rent for purposes of improving the administration of HUD's HCV program

(see 71 FR 5068), the 40th-percentile rent was used to ensure nationwide consistency of comparisons.

b. The denominator of the ratio was the monthly LIHTC income-based rent limit, which was calculated as $\frac{1}{2}$ of 30 percent of 120 percent of the area's VLIL (where the VLIL was rounded to the nearest \$50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent of AMGI base).

2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for HMFAs and for nonmetropolitan counties.

3. The non-GO Zone DDAs are those HMFAs and nonmetropolitan counties not in areas "determined by the President to warrant individual or individual and public assistance from the Federal Government" under the Stafford Act by reason of Hurricanes Katrina, Rita, or Wilma, with the highest ratios cumulative to 20 percent of the 2000 population of all HMFAs and of all nonmetropolitan counties, respectively.

B. Application of Population Caps to DDA Determinations

In identifying DDAs, HUD applied caps, or limitations, as noted above. The cumulative population of metropolitan DDAs not in areas "determined by the President to warrant individual or individual and public assistance from the Federal Government" under the Stafford Act by reason of Hurricanes Katrina, Rita, or Wilma cannot exceed 20 percent of the cumulative population of all metropolitan areas. The cumulative population of nonmetropolitan DDAs not in areas "determined by the President to warrant individual or individual and public assistance from the Federal Government" under the Stafford Act by reason of Katrina, Rita, or Wilma cannot exceed 20 percent of the cumulative population of all nonmetropolitan areas.

In applying these caps, HUD established procedures to deal with how to treat small overruns of the caps. The remainder of this section explains the procedures. In general, HUD stops selecting areas when it is impossible to choose another area without exceeding the applicable cap. The only exceptions to this policy are when the next eligible excluded area contains either a large absolute population or a large percentage of the total population, or the next excluded area's ranking ratio, as described above, was identical (to four decimal places) to the last area selected, and its inclusion resulted in only a minor overrun of the cap. Thus, for both the designated metropolitan

and nonmetropolitan DDAs, there may be minimal overruns of the cap. HUD believes the designation of additional areas in the above examples of minimal overruns is consistent with the intent of the legislation. As long as the apparent excess is small due to measurement errors, some latitude is justifiable because it is impossible to determine whether the 20 percent cap has been exceeded. Despite the care and effort involved in a decennial census, the Census Bureau and all users of the data recognize that the population counts for a given area and for the entire country are not precise. Therefore, the extent of the measurement error is unknown. There can be errors in both the numerator and denominator of the ratio of populations used in applying a 20 percent cap. In circumstances where a strict application of a 20 percent cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting small variances above the 20 percent limit.

C. Exceptions to OMB Definitions of MSAs and Other Geographic Matters

As stated in OMB Bulletin 06-01 defining metropolitan areas:

OMB establishes and maintains the definitions of Metropolitan * * * Statistical Areas, * * * solely for statistical purposes. * * * OMB does not take into account or attempt to anticipate any non-statistical uses that may be made of the definitions[.] In cases where * * * an agency elects to use the Metropolitan * * * Area definitions in nonstatistical programs, it is the sponsoring agency's responsibility to ensure that the definitions are appropriate for such use. An agency using the statistical definitions in a nonstatistical program may modify the definitions, but only for the purposes of that program. In such cases, any modifications should be clearly identified as deviations from the OMB statistical area definitions in order to avoid confusion with OMB's official definitions of Metropolitan * * * Statistical Areas."

Following OMB guidance, the estimation procedure for the FY2007 FMRs incorporates the current OMB definitions of metropolitan areas based on the new Core-Based Statistical Area (CBSA) standards, as implemented with 2000 Census data, but makes adjustments to the definitions, in order to separate subparts of these areas in cases where FMRs (and in a few cases, VLILs) would otherwise change significantly if the new area definitions were used without modification. In CBSAs where sub-areas are established, it is HUD's view that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may become so as the social

and economic integration of the CBSA component areas increases.

The geographic baseline for the new estimation procedure is the CBSA Metropolitan Areas (referred to as Metropolitan Statistical Areas or MSAs) and CBSA Non-Metropolitan Counties (non-metropolitan counties include the county components of Micropolitan CBSAs where the counties are generally assigned separate FMRs). The HUD-modified CBSA definitions allow for sub-area FMRs within MSAs based on the boundaries of "Old FMR Areas" (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY2005 FMRs. Collectively, they include June 30, 1999, OMB-definition Metropolitan Statistical Areas and Primary Metropolitan Statistical Areas (old definition MSAs/PMSAs), metropolitan counties deleted from old definition MSAs/PMSAs by HUD for FMR-setting purposes, and counties and county parts outside of old definition MSAs/PMSAs referred to as non-metropolitan counties.) Sub-areas of MSAs are assigned their own FMRs when the sub-area 2000 Census Base FMR differs significantly from the MSA 2000 Census Base FMR (or, in some cases, where the 2000 Census base AMGI differs significantly from the MSA 2000 Census Base AMGI). MSA sub-areas, and the remaining portions of MSAs after sub-areas have been determined, are referred to as "HUD Metro FMR Areas (HMFAs)," to distinguish such areas from OMB's official definition of MSAs.

In addition, Waller County, Texas, which is part of the Houston-Baytown-Sugar Land, TX HMFA, is not an area "determined by the President to warrant individual or individual and public assistance from the Federal Government" under the Stafford Act by reason of Hurricanes Katrina, Rita, or Wilma. It is, therefore, excluded from the definition of the Houston-Baytown-Sugar Land, TX HMFA and is assigned the FMR and VLIL of the Houston-Baytown-Sugar Land, TX HMFA and is evaluated as if it were a separate metropolitan area for purposes of designating DDAs. The Houston-Baytown-Sugar Land, TX HMFA is assigned the indicator "(part)" in the list of Metropolitan DDAs.

In the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), HMFAs are defined according to county subdivisions or minor civil divisions (MCDs), rather than county boundaries. However, since no part of an HMFA is outside an OMB-defined, county-based MSA, all New England nonmetropolitan counties are kept

intact for purposes of designating Nonmetropolitan DDAs.

For the convenience of readers of this notice, the geographical definitions of designated Metropolitan DDAs are included in the list of DDAs.

The Census Bureau provides no tabulations of 2000 Census data for Broomfield County, Colorado, an area that was created from parts of four Colorado counties when the city of Broomfield became a county in November 2001. Broomfield County is made up of former parts of Adams, Boulder, Jefferson, and Weld counties. The boundaries of Broomfield County are similar, but not identical to, the boundaries of the city of Broomfield at the time of the 2000 Census. In OMB metropolitan area definitions and, therefore, for purposes of this notice, Broomfield County is included as part of the Denver-Aurora, CO MSA. Census tracts in Broomfield County include the parts of the Adams, Boulder, Jefferson, and Weld County census tracts that were within the boundaries of the city of Broomfield according to the 2000 Census, plus parts of three Adams County tracts (85.15, 85.16, and 85.28), and one Jefferson County tract (98.25) that were not within any municipality during the 2000 Census but which, according to Census Bureau maps, are within the boundaries of Broomfield County. Data for Adams, Boulder, Jefferson, and Weld Counties and their census tracts were adjusted to exclude the data assigned to Broomfield County and its census tracts.

Future Designations

DDAs are designated annually as updated income and FMR data are made public.

Effective Date

For DDAs designated by reason of being in areas “determined by the President to warrant individual or individual and public assistance from the Federal Government” under the Stafford Act by reason of Hurricanes Katrina, Rita, or Wilma (the GO Zone Designation), the designation is effective:

(1) For housing credit dollar amounts allocated and buildings placed in service during the period beginning on January 1, 2006, and ending on December 31, 2010; or

(2) For purposes of Section 42(h)(4) of the Internal Revenue Code, for buildings placed in service during the period beginning on January 1, 2006, and ending on December 31, 2010, but only with respect to bonds issued after December 31, 2005.

The 2008 lists of DDAs that are not part of the GO Zone Designation are effective:

(1) For allocations of credit after December 31, 2007; or

(2) For purposes of Section 42(h)(4) of the Code, if the bonds are issued and the building is placed in service after December 31, 2007.

If an area is not on a subsequent list of DDAs, the 2008 lists are effective for the area if:

(1) The allocation of credit to an applicant is made no later than the end of the 365-day period after the submission to the LIHTC-allocating agency of a complete application by the applicant, and the submission is made before the effective date of the subsequent lists; or

(2) For purposes of Section 42(h)(4) of the Code, if:

(a) The bonds are issued or the building is placed in service no later than the end of the 365-day period after the applicant submits a complete application to the bond-issuing agency, and

(b) The submission is made before the effective date of the subsequent lists, provided that both the issuance of the bonds and the placement in service of the building occur after the application is submitted.

An application is deemed to be submitted on the date it is filed if the application is determined to be complete by the credit-allocating or bond-issuing agency. A “complete application” means that no more than *de minimis* clarification of the application is required for the agency to make a decision about the allocation of tax credits or issuance of bonds requested in the application.

In the case of a “multiphase project,” the DDA or QCT status of the site of the project that applies for all phases of the project is that which applied when the project received its first allocation of LIHTC. For purposes of Section 42(h)(4) of the Internal Revenue Code, the DDA or QCT status of the site of the project that applies for all phases of the project is that which applied when the first of the following occurred: (a) The building(s) in the first phase were placed in service or (b) the bonds were issued.

For purposes of this notice, a “multiphase project” is defined as a set of buildings to be constructed or rehabilitated under the rules of the LIHTC and meeting the following criteria:

(1) The multiphase composition of the project (i.e., total number of buildings and phases in project, with a description of how many buildings are to be built in each phase

and when each phase is to be completed, and any other information required by the agency) is made known by the applicant in the first application of credit for any building in the project, and that applicant identifies the buildings in the project for which credit is (or will be) sought;

(2) The aggregate amount of LIHTC applied for on behalf of, or that would eventually be allocated to, the buildings on the site exceeds the one-year limitation on credits per applicant, as defined in the QAP of the LIHTC-allocating agency, or the annual per capita credit authority of the LIHTC allocating agency, and is the reason the applicant must request multiple allocations over 2 or more years; and

(3) All applications for LIHTC for buildings on the site are made in immediately consecutive years.

Members of the public are hereby reminded that the Secretary of Housing and Urban Development, or the Secretary’s designee, has sole legal authority to designate DDAs and QCTs by publishing lists of geographic entities as defined by, in the case of DDAs, the several states and the governments of the insular areas of the United States and, in the case of QCTs, by the Census Bureau; and to establish the effective dates of such lists. The Secretary of the Treasury, through the IRS thereof, has sole legal authority to interpret, and to determine and enforce compliance with, the Internal Revenue Code and associated regulations, including **Federal Register** notices published by HUD for purposes of designating DDAs and QCTs. Representations made by any other entity as to the content of HUD notices designating DDAs and QCTs that do not precisely match the language published by HUD should not be relied upon by taxpayers in determining what actions are necessary to comply with HUD notices.

Interpretive Examples of Effective Date

For the convenience of readers of this notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose DDA status. The term “regular DDA,” as used below, refers to DDAs that are designated by the Secretary of HUD as having high construction, land, and utility costs relative to AMGI. The term “GO Zone DDA” refers to areas “determined by the President to warrant individual or individual and public assistance from the Federal Government” under the Stafford Act by reason of Hurricanes Katrina, Rita, or Wilma. The examples covering regular DDAs are equally applicable to QCT designations.

(Case A) Project A is located in a 2008 regular DDA that is NOT a designated regular DDA in 2009. A complete

application for tax credits for Project A is filed with the allocating agency on November 15, 2008. Credits are allocated to Project A on October 30, 2009. Project A is eligible for the increase in basis accorded a project in a 2008 regular DDA because the application was filed BEFORE January 1, 2009 (the assumed effective date for the 2009 regular DDA lists), and because tax credits were allocated no later than the end of the 365-day period after the filing of the complete application for an allocation of tax credits.

(Case B) Project B is located in a 2008 regular DDA that is NOT a designated regular DDA in 2009. A complete application for tax credits for Project B is filed with the allocating agency on December 1, 2008. Credits are allocated to Project B on March 30, 2010. Project B is NOT eligible for the increase in basis accorded a project in a 2008 regular DDA because, although the application for an allocation of tax credits was filed BEFORE January 1, 2009 (the assumed effective date of the 2009 regular DDA lists), the tax credits were allocated later than the end of the 365-day period after the filing of the complete application.

(Case C) Project C is located in a 2008 regular DDA that was not a DDA in 2007. Project C was placed in service on November 15, 2007. A complete application for tax-exempt bond financing for Project C is filed with the bond-issuing agency on January 15, 2008. The bonds that will support the permanent financing of Project C are issued on September 30, 2008. Project C is NOT eligible for the increase in basis otherwise accorded a project in a 2008 DDA because the project was placed in service BEFORE January 1, 2008.

(Case D) Project D is located in an area that is a regular DDA in 2008, but is NOT a regular DDA in 2009. A complete application for tax-exempt bond financing for Project D is filed with the bond-issuing agency on October 30, 2008. Bonds are issued for Project D on April 30, 2009, but Project D is not placed in service until January 30, 2010. Project D is eligible for the increase in basis available to projects located in 2008 regular DDAs because: (1) The first of the two events necessary for triggering the effective date for buildings described in Section 42(h)(4)(B) of the Code (the two events being bonds issued and buildings placed in service) took place on April 30, 2009, within the 365-day period after a complete application for tax-exempt bond financing was filed, (2) the application was filed during a

time when the location of Project D was in a regular DDA, and (3) both the issuance of the bonds and placement in service of project D occurred after the application was submitted.

(Case E) Project E is located in a GO Zone DDA. The bonds used to finance project E are issued on July 1, 2010, and project E is placed in service July 1, 2011. Project E is NOT eligible for the increase in basis available to projects in GO Zone DDAs because it was not placed in service during the period that began on January 1, 2006, and ends on December 31, 2010.

(Case F) Project F is located in a GO Zone DDA. The bonds used to finance project F were issued July 1, 2005, and project F is placed in service on July 1, 2008. Project F is NOT eligible for the increase in basis available to projects in GO Zone DDAs because the bonds used to finance project F were issued BEFORE December 31, 2005.

(Case G) Project G is a multiphase project located in a 2007 regular DDA that is NOT a designated regular DDA in 2008. The first phase of Project G received an allocation of credits in 2007, pursuant to an application filed March 15, 2007, which describes the multiphase composition of the project. An application for tax credits for the second phase Project G is filed with the allocating agency by the same entity on March 15, 2008. The second phase of Project G is located on a contiguous site. Credits are allocated to the second phase of Project G on October 30, 2008. The aggregate amount of credits allocated to the two phases of Project G exceeds the amount of credits that may be allocated to an applicant in one year under the allocating agency's QAP and is the reason that applications were made in multiple phases. The second phase of Project G is therefore eligible for the increase in basis accorded a project in a 2007 regular DDA because it meets all of the conditions to be a part of a multiphase project.

(Case H) Project H is a multiphase project located in a 2007 regular DDA that is NOT a designated regular DDA in 2008. The first phase of Project H received an allocation of credits in 2007, pursuant to an application filed March 15, 2007, which does not describe the multiphase composition of the project. An application for tax credits for the second phase Project H is filed with the allocating agency by the same entity on March 15, 2009. Credits are allocated to the second phase of Project H on October 30, 2009. The aggregate amount of credits allocated to the two phases of

Project H exceeds the amount of credits that may be allocated to an applicant in one year under the allocating agency's QAP. The second phase of Project H is, therefore, NOT eligible for the increase in basis accorded a project in a 2007 regular DDA because it does not meet all of the conditions for a multiphase project, as defined in this notice. The original application for credits for the first phase did not describe the multiphase composition of the project. Also, the application for credits for the second phase of Project H was not made in the year immediately following the first phase application year.

Findings and Certifications

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(6) of HUD's regulations, the policies and procedures contained in this notice provide for the establishment of fiscal requirements or procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no Finding of No Significant Impact is required.

Federalism Impact

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any policy document that has federalism implications if the document either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the document preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This notice merely designates DDAs as required under Section 42 of the Internal Revenue Code, as amended, for the use by political subdivisions of the states in allocating the LIHTC. This notice also details the technical methodology used in making such designations. As a result, this notice is not subject to review under the order.

Dated: August 31, 2007.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

BILLING CODE 4210-67-P

2008 IRS SECTION 42(d)(5)(C) METROPOLITAN DIFFICULT DEVELOPMENT AREAS
(OMB Metropolitan Area Definitions, December 5, 2005 [MSA] and derived FY2007 HUD Metro FMR Area Definitions [HMFA])

| State | Metropolitan Area | Metropolitan Area Components |
|------------|---|------------------------------|
| Alabama | Mobile, AL MSA [GO Zone] | Mobile County |
| | Tuscaloosa, AL MSA [GO Zone] | Greene County |
| | | Hale County |
| | | Tuscaloosa County |
| Arizona | Flagstaff, AZ MSA | Coconino County |
| | Prescott, AZ MSA | Yavapai County |
| | Yuma, AZ MSA | Yuma County |
| California | Los Angeles-Long Beach, CA HMFA | Los Angeles County |
| | Napa, CA MSA | Napa County |
| | Oakland-Fremont, CA HMFA | Alameda County |
| | Orange County, CA HMFA | Orange County |
| | Oxnard-Thousand Oaks-Ventura, CA MSA | Ventura County |
| | Sacramento-Arden-Arcade-Roseville, CA HMFA | El Dorado County |
| | Salinas, CA MSA | Monterey County |
| | San Diego-Carlsbad-San Marcos, CA MSA | San Diego County |
| | San Luis Obispo-Paso Robles, CA MSA | San Luis Obispo County |
| | Santa Barbara-Santa Maria, CA MSA | Santa Barbara County |
| | Santa Cruz-Watsonville, CA MSA | Santa Cruz County |
| | Santa Rosa-Petaluma, CA MSA | Sonoma County |
| | Stockton, CA MSA | San Joaquin County |
| Florida | Cape Coral-Fort Myers, FL MSA [GO Zone] | Lee County |
| | Deltona-Daytona Beach-Ormond Beach, FL MSA | Volusia County |
| | Fort Lauderdale, FL HMFA [GO Zone] | Broward County |
| | Miami-Miami Beach-Kendall, FL HMFA [GO Zone] | Miami-Dade County |
| | Naples-Marco Island, FL MSA [GO Zone] | Collier County |
| | Palm Bay-Melbourne-Titusville, FL MSA [GO Zone] | Brevard County |
| | Port St. Lucie-Fort Pierce, FL MSA [GO Zone] | Martin County |
| | Sebastian-Vero Beach, FL MSA [GO Zone] | Indian River County |
| | Tampa-St. Petersburg-Clearwater, FL MSA | Hernando County |
| | West Palm Beach-Boca Raton, FL HMFA [GO Zone] | Palm Beach County |
| Hawaii | Honolulu, HI MSA | Honolulu County |
| Louisiana | Baton Rouge, LA HMFA [GO Zone] | Ascension Parish |
| | | Pointe Coupee Parish |
| | | St. Helena Parish |
| | | Terrebonne Parish |
| | Houma-Bayou Cane-Thibodaux, LA MSA [GO Zone] | East Baton Rouge Parish |
| | Iberville Parish, LA HMFA [GO Zone] | West Baton Rouge Parish |
| | Lafayette, LA MSA [GO Zone] | Iberville Parish |
| | Lake Charles, LA MSA [GO Zone] | Lafayette Parish |
| | New Orleans-Metairie-Kenner, LA MSA [GO Zone] | Calcasieu Parish |
| | | Jefferson Parish |
| | | St. Charles Parish |
| | | St. John the Baptist Parish |
| | | Plaquemines Parish |
| | | St. Tammany Parish |
| | | St. Bernard Parish |
| | | Pinellas County |

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2008 IRS SECTION 42(d)(5)(C) METROPOLITAN DIFFICULT DEVELOPMENT AREAS
(OMB Metropolitan Area Definitions, December 5, 2005 [MSA] and derived FY2007 HUD Metro FMR Area Definitions [HMFA])

| State | Metropolitan Area | Metropolitan Area Components |
|------------------------------|--|--|
| Texas | Beaumont-Port Arthur, TX MSA [GO Zone] | Orange County |
| | Brazoria County, TX HMFA [GO Zone] | Galveston County San Jacinto County |
| | Houston-Baytown-Sugar Land, TX HMFA (part) [GO Zone] | Fort Bend County Montgomery County |
| | McAllen-Edinburg-Mission, TX MSA | Hidalgo County |
| | Aguadilla-Isabela-San Sebastián, PR MSA | Aguadilla Municipio Moca Municipio Camuy Municipio Barranquitas Municipio Quebradillas Municipio Cayey Municipio |
| | Arecibo, PR HMFA | Lares Municipio |
| | Barranquitas-Albionito-Quebradillas, PR HMFA | Arecibo Municipio Albionito Municipio Orocovis Municipio Caguas Municipio San Lorenzo Municipio |
| | Caguas, PR HMFA | Celba Municipio |
| | Fajardo, PR MSA | Arroyo Municipio |
| | Guayama, PR MSA | Hormigueros Municipio |
| Mayaguez, PR MSA | Juana Diaz Municipio | |
| Ponce, PR MSA | Cabo Rojo Municipio | |
| San Germán-Cabo Rojo, PR MSA | Agua Buenas Municipio | |
| San Juan-Guaynabo, PR HMFA | Carolina Municipio Dorado Municipio Juncos Municipio Morovis Municipio San Juan Municipio Vega Alta Municipio | |
| Puerto Rico | | Añasco Municipio Rincón Municipio Hatillo Municipio Ciales Municipio Cidra Municipio Luquillo Municipio Patillas Municipio Villalba Municipio Sabana Grande Municipio Bayamón Municipio Comerio Municipio Guaynabo Municipio Loiza Municipio Naranjito Municipio Toa Baja Municipio Yabucoa Municipio |
| | | Isabela Municipio Maunabo Municipio Gurabo Municipio |
| | | San Germán Municipio Canóvanas Municipio Corozal Municipio Humacao Municipio Manatí Municipio Río Grande Municipio Trujillo Alto Municipio |

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2008 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (OMB Metropolitan Area Definitions, December 5, 2005)

| State | Nonmetropolitan Counties or County Equivalents | Clarke County [GO Zone] | Marengo County [GO Zone] | Pickens County [GO Zone] |
|-------------------|--|-----------------------------|-----------------------------------|----------------------------------|
| Alabama | Choctaw County [GO Zone] | Washington County [GO Zone] | | |
| | Sumter County [GO Zone] | Bethel Census Area | Bristol Bay Borough | Dillingham Census Area |
| Alaska | Aleutians East Borough | Juneau City and Borough | Ketchikan Gateway Borough | Kodiak Island Borough |
| | Haines Borough | Lake and Peninsula Borough | North Slope Borough | Northwest Arctic Borough |
| | Prince of Wales-Outer Ketchikan Census Area | Sitka City and Borough | Skagway-Hoonah-Angoon Census Area | Southeast Fairbanks Census Area |
| | Valdez-Cordova Census Area | Wade Hampton Census Area | Wrangell-Petersburg Census Area | Yakutat City and Borough |
| | Yukon-Koyukuk Census Area | | | |
| Arizona | Apache County | Cochise County | Gila County | Graham County |
| | Greenlee County | La Paz County | Navajo County | Santa Cruz County |
| Arkansas | Baxter County | Carroll County | Cleburne County | Cross County |
| | Drew County | Hempstead County | Lafayette County | Mississippi County |
| | Montgomery County | Nevada County | Newton County | Pike County |
| | St. Francis County | Searcy County | | |
| California | Amador County | Colusa County | Del Norte County | Humboldt County |
| | Lake County | Lassen County | Mariposa County | Mendocino County |
| | Modoc County | Mono County | Nevada County | Plumas County |
| | Sierra County | Siskiyou County | Tehama County | Trinity County |
| | Tuolumne County | | | |
| Colorado | Archuleta County | Chaffee County | Custer County | Dolores County |
| | Eagle County | Garfield County | Gunnison County | Hinsdale County |
| | Jackson County | Lake County | La Plata County | Mineral County |
| | Montrose County | Ouray County | Pitkin County | Rio Blanco County |
| | Routt County | San Juan County | San Miguel County | Summit County |
| Delaware | Sussex County | | | |
| Florida | Calhoun County | Citrus County | Columbia County | DeSoto County |
| | Dixie County | Flagler County | Franklin County | Glades County [GO Zone] |
| | Gulf County | Hamilton County | Hardee County | Henry County [GO Zone] |
| | Highlands County | Holmes County | Jackson County | Lafayette County |
| | Levy County | Liberty County | Madison County | Monroe County [GO Zone] |
| | Okeechobee County [GO Zone] | Putnam County | Suwannee County | Taylor County |
| | Walton County | Washington County | | |
| Georgia | Gilmer County | Rabun County | Talbot County | Towns County |
| | Union County | White County | | |
| Hawaii | Hawaii County | Kalawao County | Kauai County | Maui County |
| Idaho | Benewah County | Blaine County | Bonner County | Boundary County |
| | Carnas County | Cassia County | Elmore County | Gooding County |
| | Idaho County | Jerome County | Lincoln County | Twin Falls County |
| Kentucky | Butler County | Carlisle County | Elliott County | Fulton County |
| | Lincoln County | Montgomery County | Nicholas County | Owen County |
| | Powell County | Rowan County | Simpson County | Whitley County |
| Louisiana | Allen Parish [GO Zone] | Assumption Parish [GO Zone] | Beauregard Parish [GO Zone] | Bienville Parish |
| | Claiborne Parish | Evangeline Parish [GO Zone] | Iberia Parish [GO Zone] | Jefferson Davis Parish [GO Zone] |
| | Natchitoches Parish | Red River Parish | Sabine Parish [GO Zone] | St. James Parish [GO Zone] |
| | St. Mary Parish [GO Zone] | Tangipahoa Parish [GO Zone] | Vermilion Parish [GO Zone] | Vernon Parish [GO Zone] |
| | Washington Parish [GO Zone] | | | |
| Maine | Franklin County | Hancock County | Knox County | Lincoln County |
| | Oxford County | Piscataquis County | Waldo County | Washington County |
| Maryland | St. Mary's County | | | |

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2008 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (OMB Metropolitan Area Definitions, December 5, 2005)

| State | Nonmetropolitan Counties or County Equivalents | Metropolitan Counties or County Equivalents |
|-----------------------|--|---|
| Massachusetts | Dukes County | Nantucket County |
| Michigan | Benzie County | Osage County |
| Mississippi | Adams County [GO Zone] | Amite County [GO Zone] |
| | Bolivar County | Calhoun County |
| | Claiborne County [GO Zone] | Clarke County [GO Zone] |
| | Covington County [GO Zone] | Franklin County [GO Zone] |
| | Holmes County [GO Zone] | Humphreys County [GO Zone] |
| | Jefferson County [GO Zone] | Jefferson Davis County [GO Zone] |
| | Lafayette County | Lauderdale County [GO Zone] |
| | Leflore County | Lincoln County [GO Zone] |
| | Montgomery County | Neshoba County [GO Zone] |
| | Oktibbeha County [GO Zone] | Panola County |
| | Quitman County | Scott County [GO Zone] |
| | Sunflower County | Tallahatchie County |
| | Warren County [GO Zone] | Washington County |
| | Winston County [GO Zone] | Yaibusha County |
| Missouri | Taney County | |
| Montana | Beaverhead County | Flathead County |
| | Mineral County | Park County |
| Nevada | Churchill County | Douglas County |
| New Hampshire | Belknap County | Carroll County |
| | Merrimack County | |
| New Mexico | Catron County | Chaves County |
| | DeBaca County | Grant County |
| | Lincoln County | Luna County |
| | Quay County | Rio Arriba County |
| | Sierra County | Socorro County |
| | Cortland County | Essex County |
| | Hamilton County | Jefferson County |
| | Sullivan County | |
| North Carolina | Avery County | Chowan County |
| | Gates County | Hyde County |
| | McDowell County | Mitchell County |
| | Rutherford County | Tyrrell County |
| | Wilson County | |
| Oklahoma | Hughes County | Okfuskee County |
| Oregon | Clatsop County | Coos County |
| | Douglas County | Gilliam County |
| | Jefferson County | Josephine County |
| | Morrow County | Tillamook County |
| | Wasco County | Wheeler County |
| Pennsylvania | Columbia County | Monroe County |
| South Carolina | Beaufort County | Georgetown County |
| Tennessee | Bedford County | Haywood County |
| | | Jasper County |
| | | Wayne County |
| | | Washington County |
| | | Pasquotank County |
| | | Jackson County |
| | | Cleveland County |
| | | Dare County |
| | | Greene County |
| | | Seneca County |
| | | Fulton County |
| | | Schuyler County |
| | | Essex County |
| | | Socorro County |
| | | Rio Arriba County |
| | | Luna County |
| | | Grant County |
| | | Chaves County |
| | | Carroll County |
| | | Douglas County |
| | | Park County |
| | | Flathead County |
| | | Beaverhead County |
| | | Taney County |
| | | Winston County [GO Zone] |
| | | Warren County [GO Zone] |
| | | Sunflower County |
| | | Quitman County |
| | | Oktibbeha County [GO Zone] |
| | | Montgomery County |
| | | Leflore County |
| | | Lafayette County |
| | | Jefferson County [GO Zone] |
| | | Holmes County [GO Zone] |
| | | Covington County [GO Zone] |
| | | Claiborne County [GO Zone] |
| | | Bolivar County |
| | | Adams County [GO Zone] |
| | | Benzie County |
| | | Dukes County |
| | | Yaibusha County |
| | | Washington County |
| | | Tallahatchie County |
| | | Scott County [GO Zone] |
| | | Panola County |
| | | Neshoba County [GO Zone] |
| | | Lincoln County [GO Zone] |
| | | Lauderdale County [GO Zone] |
| | | Jefferson Davis County [GO Zone] |
| | | Humphreys County [GO Zone] |
| | | Franklin County [GO Zone] |
| | | Clarke County |
| | | Calhoun County |
| | | Amite County [GO Zone] |
| | | Osage County |
| | | Nantucket County |
| | | Wilkinson County [GO Zone] |
| | | Walsh County [GO Zone] |
| | | Smith County [GO Zone] |
| | | Pike County [GO Zone] |
| | | Noxubee County [GO Zone] |
| | | Marion County [GO Zone] |
| | | Leake County [GO Zone] |
| | | Kemper County [GO Zone] |
| | | Jasper County [GO Zone] |
| | | Grenada County |
| | | Coahoma County |
| | | Choctaw County [GO Zone] |
| | | Benton County |

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2008 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (OMB Metropolitan Area Definitions, December 5, 2005)

| State | Nonmetropolitan Counties or County Equivalents | |
|--------------------------------|--|------------------|
| Texas | Anderson County | |
| | Camp County | |
| | Dallam County | |
| | Gillespie County | |
| | Jasper County [GO Zone] | |
| | Leon County | |
| | Mills County | |
| | Navarro County | |
| | Red River County | |
| | Shelby County [GO Zone] | |
| | Walker County [GO Zone] | |
| | Beaver County | |
| | Piute County | |
| | Wasatch County | |
| | Addison County | |
| | Northampton County | |
| | Clallam County | |
| | Jefferson County | |
| | Mason County | |
| | Calhoun County | |
| Roane County | | |
| Teton County | | |
| American Samoa | Eastern District | |
| | Manu'a District | |
| Guam | Manu'a District | |
| | Swains Island | |
| | Western District | |
| | Western District | |
| Northern Mariana Islands | Northern Islands Municipality | |
| | Rota Municipality | |
| | Saipan Municipality | |
| | Culebra Municipio | |
| | Salinas Municipio | |
| Puerto Rico | Adjuntas Municipio | |
| | Las Marias Municipio | |
| | Utua Municipio | |
| | Vieques Municipio | |
| Virgin Islands | St. Croix | |
| | St. John | |
| Utah | Garfield County | |
| | Rich County | |
| | Wayne County | |
| | Bennington County | |
| | Prince Edward County | |
| | Grant County | |
| | Kititas County | |
| | Okanogan County | |
| | Doddridge County | |
| | Taylor County | |
| | Kane County | |
| | Sanpete County | |
| Vermont | Windham County | |
| | Westmoreland County | |
| | Grant County | |
| | Kickitat County | |
| | San Juan County | |
| | Grant County | |
| | Pendleton County | |
| | Millard County | |
| | Sevier County | |
| | Grays Harbor County | |
| Lewis County | | |
| Washington | Burnet County | |
| | Comanche County | |
| | Frio County | |
| | Houston County | |
| | Lamar County | |
| | Marion County | |
| | Nacogdoches County [GO Zone] | |
| | Polk County [GO Zone] | |
| | San Saba County | |
| | Tyler County [GO Zone] | |
| | Brown County | |
| | Coleman County | |
| | Falls County | |
| | Henderson County | |
| | Kleberg County | |
| Madison County | | |
| Morris County | | |
| Palo Pinto County | | |
| San Augustine County [GO Zone] | | |
| Trinity County [GO Zone] | | |
| West Virginia | Angelina County [GO Zone] | |
| | Coke County | |
| | Eastland County | |
| | Grimes County | |
| | Kerr County | |
| | Liano County | |
| | Montague County | |
| | Newton County [GO Zone] | |
| | Sabine County [GO Zone] | |
| | Titus County | |
| Wyoming | Garfield County | |
| | Rich County | |
| | Wayne County | |
| | Bennington County | |
| | Prince Edward County | |
| | Grant County | |
| | Kititas County | |
| | Okanogan County | |
| | Doddridge County | |
| | Taylor County | |
| American Samoa | Eastern District | |
| | Manu'a District | |
| | Swains Island | |
| | Western District | |
| | Western District | |
| | Guam | Manu'a District |
| | | Swains Island |
| | | Western District |
| | | Western District |
| | | Western District |
| Northern Mariana Islands | Northern Islands Municipality | |
| | Rota Municipality | |
| | Saipan Municipality | |
| | Culebra Municipio | |
| | Salinas Municipio | |
| Puerto Rico | Adjuntas Municipio | |
| | Las Marias Municipio | |
| | Utua Municipio | |
| | Vieques Municipio | |
| Virgin Islands | St. Croix | |
| | St. John | |

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