

**APPENDIX B**

**Nonprofit Set-Aside Form**

Nonprofit Set-Aside applicants must complete this form.

*These are WHEDA's threshold requirements for determining if applications may be submitted in the Nonprofit Set-Aside. WHEDA at its sole discretion will move an application from the Nonprofit Set-Aside to the General Set-Aside for failure to submit required materials or failure to demonstrate to WHEDA's satisfaction that the applicant meets IRS Section 42 guidelines for qualified Nonprofits.*

**To be considered eligible for the Nonprofit Set-Aside, Applicant must answer "YES" to questions 2 through 6, and "NO" to questions 7 and 8.**

1. Check one: 501(c)(3) Organization  501(c)(4) Organization

**Submit (a) Articles of Incorporation, (b) IRS certification, and (c) list of Nonprofit board members and officers.**

2. Will the Nonprofit remain in control and be the primary decision maker for the project through the development of the project and operation of the project through the compliance period? \_\_\_ YES \_\_\_ NO

3. Will the Nonprofit either (a) not make any financial guarantees to the limited partner, or (b) make financial guarantees to the limited partner which are limited in scope per IRS guidelines? \_\_\_ YES \_\_\_ NO

**If "YES" submit either (a) a statement that the Nonprofit will not make any financial guarantees to the limited partner, or (b) a description of the scope of any such guarantees.**

4. Will the Nonprofit retain a right of first refusal to acquire the project at the end of the compliance period? \_\_\_ YES \_\_\_ NO

5. Will the Nonprofit materially participate in the development and operation of the project as required by the IRS? \_\_\_ YES \_\_\_ NO

**If "YES" check all that apply to the Nonprofit's participation:**

- \_\_\_ more than 500 hours annually,
- \_\_\_ constitute substantially all the participation,
- \_\_\_ more than 100 hours annually and this is not less than any other owner,
- \_\_\_ participation in multiple projects exceeds 500 hours,
- \_\_\_ participation will be regular, consistent and substantial.

6. Is one of the exempt purposes of the Nonprofit to foster low-income housing? \_\_\_ YES \_\_\_ NO

**If "YES" submit supporting documentation.**

7. Is the Nonprofit affiliated with, or controlled by, a for-profit organization? \_\_\_ YES \_\_\_ NO  
(Must answer "NO" to be considered eligible for the Nonprofit Set-Aside; see IRC §42(h)(5)(C)(ii))

8. Is the Nonprofit related to a for-profit entity participating in the project (i.e., share officers or board of directors)? \_\_\_ YES \_\_\_ NO  
(Must answer "NO" to be considered eligible for the Nonprofit Set-Aside)

\*For further guidance on Material Participation, Applicants should consult (a) the January 2011 IRS Guide for Completing Form 8823, Chapter 22, Category 11q, and (b) the September 2014 IRS Audit Technique Guide - IRC §42, Low-Income Housing Credit, Chapter 6, Nonprofit Set-Aside.