

## Supporting Statement

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

- This proposed regulation provides guidance under section 42(h)(6)(F) of the Internal Revenue Code concerning a taxpayer's request to a housing credit agency to obtain a qualified contract to acquire the taxpayer's low-income housing credit building. Section 42(h)(6)(F) provides that the Secretary shall prescribe regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the manipulation of the amount determined under section 42(h)(6)(F). The proposed regulation defines the elements of the qualified contract.
- For projects receiving allocations after 1989, section 42(h)(6)(A), low-income housing credit project owners must enter into extended low-income housing commitments (commitments) with the housing credit agency. A commitment is a recorded covenant between housing credit agencies and owners which require the maintenance of affordable housing and certain safeguards for tenants for a period of time beginning on the first day of the compliance period and ending on the later of the date specified by the agency or 15 years after the close of the compliance period.
- Should an owner wish to terminate the commitment, section 42(h)(6)(E)(i)(II) provides that the owner may request the housing credit agency after the 14<sup>th</sup> year of the compliance period to obtain a qualified contract for the acquisition of the low-income portion of the building by a buyer who will continue to operate such portion as a qualified low-income building. The housing credit agency has one year from the time of the owner's request to provide the owner with a qualified contract. If the agency fails to provide a qualified contract within one year, the requirements of the extended use period are lifted, subject to a three year period during which certain protections for existing tenants remain in effect, the owner may convert the property to market rate housing or commercial use.
- The proposed regulations will affect taxpayers requesting a qualified contract, potential buyers, tenants, and low-income housing credit agencies responsible for the administration of the low-income housing credit program.

### 2. USE OF DATA

The information is required so that a taxpayer may request a housing credit agency to obtain a qualified contract.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

We will publish the notice of proposed rulemaking in the Federal Register in the near future to solicit public comments on the proposed regulation.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information is in the statute and the proposed regulation. We estimate that there are 20,000 respondents who will request the housing agency to obtain a qualified contract. We estimate that it will take an average of one hour for each respondent (taxpayer) to comply with the one-time reporting requirement in the statute and proposed regulation for a total burden estimated to be 20,000 hours.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

Not applicable.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the revenue procedure sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Note:** This is an emergency submission.

This document contains amendments to 26 CFR part 1 under section 42 of the Internal Revenue Code (Code). Section 42 was amended by section 7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239, 103 Stat. 2106) to add paragraph (h)(6). In general, section 42(h)(6)(A) provides that no credit will be allowed with respect to any building for the taxable year unless an extended low-income housing commitment (commitment) (as defined in section 42(h)(6)(B)) is in effect as of the end of the taxable year.

Section 42(h)(6)(E)(i)(II) provides for the termination of the extended use period if the Agency is unable to present within a specified period of time a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a low-income building.

These regulations will affect taxpayers eligible to request a qualified contract, potential buyers, and the low-income housing credit agencies which include all 50 states, Puerto Rico and U.S. possessions responsible for the administration of the low-income housing credit program. These agencies have requested this guidance for projects which are now in their 14<sup>th</sup> year of operation and are eligible to request the agencies to find a qualified buyer. These regulations will assist agencies to uniformly apply the qualified contract procedures to the thousands of taxpayer owners of low-income housing credit buildings requests and insure consistent treatment throughout the country. Therefore, we respectfully request that the consideration of this submission and provision of an OMB number be completed by June 12, 2007. Any other result will be detrimental to the taxpaying public and will interfere with the mission of the IRS to fairly administer the low-income housing credit program.