



# TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS

## HOUSING FINANCE DIVISION - MULTIFAMILY

### TAX-EXEMPT MORTGAGE REVENUE BOND PROGRAM NONPROFIT CORPORATIONS [501(c)(3)]

#### PROGRAM DESCRIPTION

The 501(c)(3) TAX-EXEMPT Multifamily Bond Program provides long term variable or fixed rate financing to nonprofit developers of new or existing multifamily rental properties in order to generate or preserve affordable rental housing. The Department may finance single developments or pools of properties located throughout the State. Under the program rules, developers agree to set aside a prescribed percentage of a property's units for rent to persons and families of low, very low and moderate income and to persons with special needs. The Department finances properties under the program through the sale of tax-exempt mortgage revenue bonds.

#### ELIGIBILITY CRITERIA

<b>BORROWER TYPE:</b>	501(c)(3) organization as defined by IRS Code and confirmed by an IRS determination. Non-credit enhanced transactions must have a group exemption or IRS determination letter for a special purpose corporation. Program may not be used in conjunction with low-income housing tax credits. Borrowers should be single asset entities.
<b>PROPERTY LOCATION:</b>	State of Texas
<b>PROPERTY TYPE:</b>	Acquisition, substantial rehabilitation or new construction of multifamily properties. Maximum of 252 units for new construction.
<b>SET-ASIDE REQUIREMENTS:</b>	(1) At the Borrower's option, designated at application, at least <b>20%</b> of all completed units must be occupied by persons or families whose income does not exceed <b>50%</b> of the area median income; <b>or</b> , at least <b>40%</b> of all completed units must be occupied by persons or families whose income does not exceed <b>60%</b> of the area median income.

This requirement must be met on or prior to the closing date unless the development is under construction. Adequate substantiation that the set aside is met, in the sole discretion of the Department, must be provided prior to closing.

(2) **75%** of the units must be occupied by persons or families whose income does not exceed **80%** of area median income;

(3) **100%** of the units must be occupied by persons or families whose income does not exceed **140%** of area median income;

(4) **7%** of the units must be designed for and made available to persons with **special needs**;

All set aside units should be evenly distributed throughout the development and include an even amount of each type of unit.

**QUALIFIED PROJECT PERIOD:**

The greater of 30 years or the period for which bonds are outstanding. This is evidenced by a Regulatory Agreement recorded in the real property records of the county in which the Project is located.

**RENT CAPS:**

Maximum allowable rents for set-aside units are 30% of applicable income limits minus an allowance for utilities (local Section 8 utility allowances). A schedule of Maximum Allowable Rents by county is available from the Department. Applicants must obtain a schedule of local Section 8 utility allowances from the local Housing Authority.

**TENANT PROGRAMS:**

The Borrower must offer a variety of tenant programs through a Tenant Services Program Plan, which is an annual requirement of the Loan and Regulatory Agreements. Specific programs must be designed to meet the needs of the current tenant profile, and must be approved annually by the Department on a case by case basis.

**FAIR HOUSING ACT:**

All projects must comply with the United States' Fair Housing Act which prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability.

The Act also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities.

**DEBT COVERAGE:**

Generally, a minimum 1.15 debt coverage inclusive of all on-going fees, including the Department's fees, or otherwise higher debt coverage required by rating agency, credit enhancer or private placement buyer.

**DEBT RATING:**

Minimum of an "A" rating from Standard & Poor's ("S&P"), or an equivalent rating from FITCH or Moody's Investor Service, to be maintained on an ongoing basis for publicly offered bonds. Bonds rated less than "A" must be accompanied by an investment letter. Private placements are allowed without a rating but must be placed with institutional investors under an investor letter acceptable to the Department. Ratings may be obtained through the S&P Affordable Housing Program, private credit enhancement, or FHA insurance.

**INTEREST RATE:**

Market rate for tax-exempt bonds or a negotiated rate on institutional private placements.

**AMORTIZATION:**

Generally 20 to 40 years. Term and amortization will be determined by TDHCA if not determined by credit enhancement provider or bond purchaser.

**LOAN TERM:**

Generally 20 to 40 years depending on property age and condition as limited by remaining useful life of project. The term of the loan cannot exceed 40 years.

**LOAN TO VALUE:**

Maximum allowable as determined by credit enhancer, rating agency, or bond purchaser (if private placement). The Department's maximum is generally 100% including debt-service reserves as collateral value.

**LOAN TO COST:**

Up to 100% financing, including costs of bond issuance and reasonable and customary fees associated with a real estate transaction. No more than 25% of bond proceeds may be used for acquiring land. Eligible Cost of Issuance must not exceed 2% of the aggregate principal amount of the tax-exempt bonds.

**RECOURSE:**

Generally non-recourse. However, all obligations of the Borrower to indemnify the issuer, to pay certain fees and

expenses, and to comply with appropriate tax covenants will be full recourse obligations against the Borrower.

**PREPAYMENT:**

May be subject to a prepayment fee or assumption fee as required by a private placement buyer. TDHCA requires a 0.25% assumption fee in all cases.

**ORIGINATION FEES AND  
ANNUAL FEES:**

See attached fee schedule.

**UNDERWRITER  
SELECTION POLICY:**

The developer may choose an approved underwriter, and co-senior or co-managing underwriters, if applicable, from the Department's list of approved underwriters. The borrower will indicate the selection of underwriter(s) in writing at the time of application.

On privately placed or non-underwritten transactions, the developer chooses a firm from the same list to act as placement agent.

**THIRD-PARTY  
SERVICE PROVIDERS:**

All other third-party service providers involved in the transaction will be chosen and/or approved by the Department.

**COSTS OF ISSUANCE:**

Borrower is responsible for paying all costs of issuance including, but not limited to, fees for bond counsel, disclosure counsel, underwriter, underwriter counsel, financial advisor, bond trustee, trustee counsel, rating agency, and credit provider (if any). Depending on transaction size and complexity, costs of issuance generally range from 3% to 5% of the total debt. Costs of issuance over the 2% eligible for tax-exempt financing may be financed with equity or taxable bond proceeds.

**MARKET STUDY &  
APPRAISAL:**

Market and project feasibility analysis performed by a market appraiser, acceptable to the Department [see "Market Study" in Department rules for scope definition].

Full narrative appraisal report, addressed to the Department, conforming to the Uniform Standards of Professional Appraisal Practice ("USPAP") as promulgated by the Appraisal Standards Board of the Appraisal Foundation. The appraisal report will address the market value of the property, the encumbered value of the property

by the restricted rents, the value attributed to the favorable financing, and the contributory value of the tax credits if applicable. The report is subject to third-party review by an independent Texas appraisal company acceptable to the Department pursuant to and in conformance with its Appraisal Policy.

**ENVIRONMENTAL:**

A Phase I ESA is required. Asbestos and lead based paint testing is considered on a case-by-case basis. An Operations & Maintenance program or abatement may be required [see Department rules for guidelines].