National Housing
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Association

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November 26, 2012

Ms. Judith Smith
Tennessee Housing Development Agency
404 James Robertson Parkway, Suite 1200
Nashville TN 37243-0900

Dear Ms. Smith,

I am writing on behalf of the National Housing & Rehabilitation Association's (NH&RA's) Tennessee Developers Council (TDC) in response to the Tennessee Housing Development Agency's (THDA) call for additional feedback regarding the DRAFT 2013 Multifamily Tax-Exempt Bond Authority Program Description (BPD).

Due to a number of factors including transaction economics, relative scarcity of soft-financing and the current economic environment, multifamily tax-exempt bond (TEB) transactions, particularly those which combine tax-exempt bonds and 4% noncompetitive low-income housing tax credits (LIHTC), are very challenging to structure and finance in Tennessee and across the nation at large. However, with interest rates at historic lows, there is a unique imperative for both THDA and its developer partners to work together to make structural improvements to THDA's the current tax-exempt bond program. We appreciate the opportunity to provide the following feedback on the bond allocation process and welcome the opportunity to continue this ongoing dialogue with THDA.

The Challenge

By design, the 4% LIHTC tax-exempt bond program is a shallower subsidy than the 9% LIHTC. 4% LIHTC generate less than half the tax credit equity than 9% credits and as a result, relative to the more heavily utilized 9% LIHTC program, multifamily tax-exempt bond transactions carry a much greater proportion of debt to equity. The greater proportion of hard debt a property carries the greater proportion of the project's collected rent must be dedicated debt. Furthermore, the vast majority of tax-exempt utilize the 4% LIHTC bond transactions are 100% income restricted, which restricts the amount of rent that can be collected. Without additional sources of financing or structural changes to the program it is very difficult to raise enough funds to adequately build or rehab a property within the constraints of the program. While the underlying federal requirements that govern the program cannot be changed without legislation, we believe that THDA can take several steps that can increase the viability of the

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program locally. Taken together, we believe these steps can take some pressure off the oversubscribed 9% LIHTC program by making the bond program more financially viable. This will also serve THDA in creating or preserving hundreds of additional units of affordable housing through-out the state.

Create a Dedicated Source for Multifamily Gap Financing

The majority of states that have an active multifamily tax-exempt bond program provide developers with access to at least one if not several state-wide dedicated soft-financing sources including state affordable housing tax credits, housing trust funds and federal Home Investment Partnership Funds (HOME). Unfortunately, at present there is no statewide soft-financing source available to multifamily affordable housing developers in Tennessee.

Recommendation: TDC strongly recommends that THDA dedicate a portion of its annual Home Investment Partnership Funds (HOME) to developers applying for 4% tax-exempt bond financing to decrease the amount of debt a property must carry. Nearly every other state HFA in the country dedicates a significant portion of their annual allocation to multifamily affordable housing. For instance, the Alabama Housing Finance Authority (AHFA) makes ninety percent of the state's HOME allocation available for multifamily purposes.[1] This provides critical gap financing necessary to adequately fund these affordable housing properties in a sustainable fashion.

Refine QAP Program Requires to Clearly Delineate Between 9% and 4% Credits

Tax-exempt bond transactions utilizing 4% LIHTCs are further complicated by the fact that transaction is governed by two separate, and sometimes conflicting, regulatory documents. Tax-exempt bonds are governed by Tennessee's Bond Program Description (BPD) and the state's Qualified Allocation Plan (QAP) governs the federal 9% LIHTC program as well as 4% LIHTC, which are administered in conjunction with the tax-exempt bonds.

Additionally, because of the financial and economic constraints the tax-exempt bond program, it is not always possible to raise sufficient capital to meet some of the construction, amenity and sustainability requirements that are associated with the 9% LIHTC.

[1] Alabama Housing Finance Authority (AHFA) Introductory Guide to the HOME Program. http://www.ahfa.com/uploadedFiles/Multifamily/HOME_Program/HOME2008.pdf

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__Recommendation__: Provide additional clarity and certainty of execution by inserting language in the BPD that explicitly states that where conflicts existing between policy requirements in the QAP and BPD that the policy in the BPD takes precedence for transactions financed using tax-exempt bonds and 4% LIHTCs.

__Recommendation__: TDC recommends that in conjunction with changes to the BPD THDA also amend the 2013 QAP to clearly delineate separate requirements for projects seeking 9% LIHTCs from projects seeking to utilize the tax-exempt bond program. TDC would appreciate the opportunity to work closely with THDA in developing the 2014 QAP, in particular to refine certain sections in order to make the tax-exempt bond program more feasible for developer partners.

Refining the Bond Program Description

On the whole, TDC generally supports THDA's November 15, 2012 proposed changes to the DRAFT 2013 Multifamily Tax-Exempt Bond Authority Program Description. However, we do recommend THDA consider the following changes to the BPD:

__Recommendation -- Part I (C)(3)__: TDC recommends editing the amended section as follows:

> Developments involving entities or individuals previously determined, in THDA's sole discretion, to be or have been involved in any development for which Section 1602 or TCAP assistance closed, but is in default [STRIKE OUT: ~~thereunder or for which events have occurred that with the passage of time will become a default]~~.

TDC believes that THDA already has sufficient protections and broad discretion to name a Section 1602 or TCAP project in "default" in its existing regulations. We believe that the additional language is overly burdensome into and insufficiently defined.

__Recommendation -- Part I (F)__: We recommend that THDA remove entirely, at least until sufficient competition returns, it's per development caps on multifamily tax-exempt bond authority. Unlike the 9% LIHTC program, at present, the multifamily tax-exempt bond program in Tennessee is undersubscribed. The per development caps simply limits the program by:

1. Preventing larger properties (i.e. 150+ unit properties) or properties in high cost areas from fully utilizing the program;
2. Eliminating opportunities for developers to package multiple properties in a single bond issuance. This allows developers to spread transactions costs over multiple properties and create economies of scale.

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TDC members suggest that the maximum size of a bond issuance should be determined by the marketplace, project specifications and sound-underwriting.

Alternatively, if THDA is unwilling to remove the caps entirely, we recommend that at a minimum:

1. The caps for limited and moderate rehabilitation properties should be set equal to the substantial rehabilitation cap.
2. The caps for both new construction and rehabilitation should be doubled to accommodate greater scale.

Recommendation -- Part I (F)(2): TDC recognizes the importance of a tiered rehabilitation requirement based on the physical needs of the property; however, we suggest that further refinements are essential to achieve the Agency's goals. TDC believes that setting minimum rehab hard costs based on a percentage of acquisition costs is counterproductive. This could prevent larger scale projects from taking advantage of opportunities inherent in this proposed amendment. For instance, a 200 unit project with minimal rehabilitation needs might not be feasible within the current bond program because the property is so large compared to the amount of rehab needed. TDC believes that an independent Physical Needs Assessment should be the determining factor for eligibility to compete as a moderate or limited rehabilitation.

Recommendation -- Part I (G): Until competition returns, we recommend that THDA remove its annual per developer cap for multifamily bond authority.

Recommendation -- Part I (J)(2): TDC strongly supports the proposed changes that removes requirements that the market study be used to determine points for scoring items in Part VII(A)(1).

Recommendation Part V (D)(3): As referred to above, for the past several years, there has been a developing trend whereby multiple properties have been financed utilizing tax-exempt bonds in a single issuance. This has the particular advantage of creating economies of scale allowing smaller properties to take advantage of bond financing.

THDA's current BPD language states that a single application may be submitted for up to four developments provided that each development is located in a rural county (as defined in Exhibit 3); b) each development has no more than 48 total units; and c) if developments are not located within the same county, all counties must be contiguous and within the same Grand Division.

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TDC believes that these transactions should be supported and that THDA could create more flexibility in its BPD to facilitate more multi-property transactions. We recommend that THDA remove the cap on the number of developments that can be submitted as a single application should be lifted entirely or raised substantially. Furthermore, we recommend striking Part V (D)(3)(a) through (c) in their entirety. We believe that all properties regardless of all sizes, county location or grand division be eligible to take advantage of these economies of scale.

TDC does recognize the increased amount of staff time it would take to underwrite these types of transactions but we believe the realized return will far outweigh the initial costs.
Recommendation – Part VI (F): TDC recommends amending the tie-breaker from ranking in ascending order by bond authority requested per square foot of heated, residential floor space to bond authority per unit, which would align the tiebreaker with the QAP.

Recommendation -- Part VII (A): TDC supports revising the Proximity to Essential Services section to mirror the new language within the 2013 Qualified Allocation Plan.

Recommendation -- Part VII (C): TDC supports revising the Serving Special Populations, particularly the language which pertains to projects that target large families and extremely low-income populations, section to mirror the new language within the 2013 Qualified Allocation Plan.

Recommendation -- Part VII (F): TDC supports of revising the Energy Efficiency scoring category to mirror the new language within the 2013 Qualified Allocation Plan.

Recommendation – IX (B) (1): TDC recommends extending its THDA Commitment Letter expiration deadline to a year. It typically takes developers seeking to use FHA financing in conjunction with tax-exempt bonds a year to fully process the financing. This is one of the most efficient bond executions currently available.

Conclusion

We appreciate the opportunity to provide you with this feedback. We would be very happy to discuss any specifics you might have regarding these comments or other subjects of concern. You may contact me directly with any questions at 202-939-1753 or tamdur@housingonline.com.

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Best Regards,

Thom Amdur
Executive Director

About the Tennessee Developers Council
The Tennessee Developers Council is an independent council of the National Housing & Rehabilitation Association comprised of LIHTC and affordable multifamily developers (both private and non-profit) who work with the Tennessee Housing Development Agency. The Council convenes on a regular basis to share ideas, network, and provide a clear voice on key policy issues being considered by THDA and state legislators.

About National Housing & Rehabilitation Association
NH&RA is a national trade association comprised of professionals involved in the development, ownership, operation and finance of multifamily affordable housing. Formed in 1971, our members include developers, owners, property managers, debt and equity providers, attorneys, accountants, and other professionals involved in tax-advantaged real estate.

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