



## Tennessee Housing Development Agency

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### MEMORANDUM

TO: All interested parties

FROM: Multifamily and Special Programs Division

DATE: January 9, 2004

SUBJECT: Draft 2004 Multifamily Tax-Exempt Bond Authority Program Description

The following document is the initial draft of the 2004 Multifamily Tax-Exempt Bond Authority Program Description for Tennessee. The initial draft includes language regarding changes proposed by members of THDA's Board of Directors, changes proposed by the public, and changes proposed by THDA staff. The initial draft will be considered by THDA's Board of Directors on January 22, 2004.

Changes proposed in this initial draft may be accepted, rejected, or modified in any respect. Changes or modifications not currently reflected in this initial draft may also be made. By posting this initial draft, no representations are being made about any item that may be included, excluded, or modified in the preparation and approval of the final 2004 Multifamily Tax-Exempt Bond Authority Program Description.

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**TENNESSEE HOUSING DEVELOPMENT  
AGENCY**

**DRAFT 2004 MULTIFAMILY TAX-EXEMPT  
BOND AUTHORITY PROGRAM**

**JANUARY 8, 2004**

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**This package includes:**

- Program Summary**
- Program Description**
- Application Requirements Checklist**
- Application with Exhibits**
- Self Check and Scoring Summary Sheet**
- HUD Median Incomes for Tennessee Counties**
- Municipal Issuers Registry, January 2004**

# Tennessee Housing Development Agency Multifamily Tax-Exempt Bond Authority 2004 Summary

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- **THDA has authorized the allocation of tax-exempt bond authority to local issuers for multifamily developments:**
  - **\$99 million in 2004 Multifamily Tax-Exempt Bond Authority** for developments which will close permanent financing by the date specified in the Commitment Letter. \$33,000,000 will be available in East Tennessee, \$33,000,000 will be available for Middle Tennessee, and \$33,000,000 for West Tennessee. Any unused, recaptured or released amounts after July 1, 2004 will be available first to any remaining eligible applications from that same Grand Division. If there are no remaining eligible applications from that same Grand Division, then the authority will be available to the next highest ranking application regardless of Grand Divisions until October 29, 2004.
- **Bonds must be issued by a local board or other issuing entity with jurisdiction in the area of the proposed development.**
- **Some units must be occupied low-income households:** twenty percent (20%) of the units must be occupied by households with incomes no greater than fifty percent (50%) of area median income, or forty percent (40%) of the units must be occupied by households with incomes no greater than sixty percent (60%) of area median income. Seventy-five percent (75%) of the units must be occupied by households with incomes no greater than one hundred and fifteen percent (115%) of the area median income.
- THDA will allocate a **maximum of ten million dollars (\$10,000,000)** in tax-exempt bond authority per development.
- The application submission period is February 13, 2004, to October 29, 2004.
- Tax-exempt bond authority will be allocated only to **eligible applications** on a first come, first served basis. If THDA receives multiple applications on the same day that, in the aggregate, request more authority than is available, those applications will be ranked according to Part VI D.
- **Applicants must meet THDA and federal tax requirements and all other applicable federal, State, and local laws or ordinances.**
- **A non-refundable \$1,000 application fee is required with each application.** If a Commitment Letter is issued, the applicant must submit a **commitment fee of one percent (1%) of the amount of bond authority allocated and separate incentive fee equal to twenty percent (20%) of the commitment fee.** Subject to the requirements of the Program Description, part of these fees may be returned.

**This is only a brief description of some elements of the program. For a complete Program Description, contact Ed Yandell, Director of Multifamily and Special Programs, at (615) 741-9666.**

# Tennessee Housing Development Agency Multifamily Tax-Exempt Bond Authority for 2004

## Program Description

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### Part I: Background, Eligibility, and Requirements

The Tennessee Housing Development Agency (THDA) is making tax-exempt bond authority available to local issuers for permanent financing for multifamily housing units in Tennessee. Part of this tax-exempt bond authority is available in each of the three Grand Divisions of the State. The tax-exempt bond authority can be used only to provide permanent financing for new construction of affordable rental housing units, for conversion of existing properties through adaptive reuse, or for acquisition and rehabilitation of rental units, subject to the conditions and requirements described below, and subject to Internal Revenue Service requirements.

#### **A. Use of Tax-Exempt Bond Authority:**

1. Any tax-exempt bond authority allocated pursuant to this Program Description must be used to provide permanent financing for the development. The tax-exempt bond authority is not intended for short-term financing, construction financing, "bridge" financing, or any other financing which is not the permanent financing for the development.
2. Applicants for and Recipients (as defined in Part II C) of 2004 Multifamily Tax-Exempt Bond Authority must issue bonds no later than 1 PM (Central Time) on the date specified in the Commitment Letter.
3. To the extent not otherwise specified herein, all federal tax requirements for private activity bonds must be met.

#### **B. Eligible Developments:**

The development must be:

1. New construction;
2. A conversion of an existing property not being used for housing; or
3. Acquisition and rehabilitation, with rehabilitation hard costs equal to at least twenty-five percent (25%) of total development costs.

#### **C. Identity of Interests**

If a development involves acquisition of land or buildings, there can be no more than a ten percent (10%) identity of interest between buyer and seller.

#### **D. Tenants to be Served**

1. Seventy five percent (75%) of the units in the development must be occupied by households with incomes no greater than one hundred fifteen percent (115%) of the area median income and
2. a. Twenty percent (20%) of the units in the development must be occupied by households with incomes no greater than fifty percent (50%) of the area median income; or

- b. Forty percent (40%) of the units in the development must be occupied by households with incomes no greater than sixty percent (60%) of the area median income.

**E. Limit on Cost per Unit**

The total cost per unit (Total Development Costs; item #12 on page 5 of the application; divided by total number of units in the proposed development) must not exceed \$90,000 in MSA counties and must not exceed \$69,900 in other counties.

**F. Maximum Amount of Bonds per Development**

A development may not receive more than ten million dollars (\$10,000,000) of tax-exempt bond authority.

**G. Maximum Amount of Bonds per Developer or Related Parties**

The maximum amount of tax-exempt bond authority that may be committed to a single applicant, developer, owner, or related parties shall not exceed fifteen million dollars (**\$15,000,000**). THDA reserves the right, in its sole discretion, to determine whether related parties are involved for the purpose of applying this limitation.

**H. Limit on Developer's Fee**

1. The developer and consultant fees cannot exceed five percent (5%) on the portion of the basis attributable to acquisition (before the addition of the fees), and cannot exceed fifteen percent (15%) of the portion of the basis attributable to new construction or to rehabilitation (before the addition of the fees).
2. If the developer and contractor are related parties, then the combined fees for contractor's profit, overhead, and general requirements plus the developer's and consultant's fees, cannot exceed fifteen percent (15%) of the portion of the basis attributable to acquisition (before the addition of the fees), and cannot exceed twenty-five percent (25%) of the portion of the basis attributable to new construction or to rehabilitation (before the addition of the fees).

**I. Limits on Costs of Issuance**

As provided in Section 147 (g), the costs of issuance financed by the proceeds of private activity bonds issued to finance multifamily housing may not exceed two percent (2%) of the proceeds of the issue.

**J. Market Study Required**

1. The application must include a market study performed by an **independent third party**. The market study must contain current information (less than six months old) at the time of submission. "Comparables" as used in property appraisals are not acceptable. THDA will determine, in its sole discretion, whether the market study and other information available to THDA supports the proposed development.
2. A market study must include, without limitation, all of the following:
  - a. Name and telephone number of person performing the study, their qualifications to perform this market study, and a statement indicating the person and/or entity performing the study has no identity of interest with any person or entity involved in the development, including, without limitation, the ownership entity and any of its partners, any other member of the development team, or any individuals involved in any such entities;

- b. On-site field study by the person performing the market study;
- c. Data identifying and describing the market areas, neighborhood and site, including geographic and demographic information;
- d. Data identifying existing units and rent types, as well as any existing tax credit developments, tax-exempt bond developments, or proposed tax credit or proposed tax-exempt bond developments which have reservations or commitments and are proposed to be built or renovated in the market area or neighborhood;
- e. Data to support a proposed rent structure lower than the maximum rents allowed by this program, if such a rent structure was proposed in the application;
- f. Data identifying vacancies of rental units in the market area and neighborhood;
- g. Data identifying income qualified households at income levels required by this program in the market area;
- h. Current and projected need based on market conditions supported by data from various market sources including waiting list information from all Section 8 and local public housing authorities serving that market area;
- i. Projected absorption time (rent up) of the proposed units by the market; and
- j. Color photos of the proposed site and surrounding neighborhood.

#### **K. Appraisal Required**

The application must include an appraisal of the proposed development performed in accordance with industry standards, by an appraiser licensed in Tennessee. The appraisal cannot be based solely or largely on a “cost” approach to value, but must also consider market and income approaches to value. If the application is proposing acquisition of an existing structure, an “as is” appraisal must also be included.

#### **L. Physical Needs Assessment Required**

For Initial Applications proposing rehabilitation, the Initial Application must include a physical needs assessment. The physical needs assessment must be in a form and with content acceptable to THDA in its sole discretion, and must include a complete and detailed work plan showing all necessary and contemplated improvements and the projected cost. Physical needs assessments must be less than six months old at the time of submission in order to be acceptable.

#### **M. Minimum Score Required**

1. If the application requests tax-exempt bond authority **ONLY** (i.e. does **NOT** request non-competitive tax credits), the application must receive at least 125 points under Part VII-A through Part VII-G. **APPLICATIONS REQUESTING TAX-EXEMPT BOND AUTHORITY ONLY MAY NOT CLAIM POINTS UNDER PART VII-H OR PART VII-I.**
2. If the application requests tax-exempt bond authority **AND** non-competitive tax credits, the application must receive at least 186 points under Part VII-A through Part VII-I.

#### **N. Program Requirements and IRS Requirements**

All program description requirements, application requirements, and IRS requirements must be met. If there is any inconsistency or conflict among the requirements, the most stringent of the requirements will apply, as determined by THDA.

### **Part II: Tax-Exempt Authority Available**

- A. Ninety-nine million dollars (\$99,000,000) of 2004 Multifamily Tax-Exempt Bond Authority is available.**
- B. A total of thirty-three million dollars (\$33,000,000) of 2004 Multifamily Tax-Exempt Bond Authority will be available initially in each of the three Grand Divisions (East, Middle, and West), then subsequently as provided in Part VI.
- C. Recipients are eligible for commitments for 2004 Multifamily Tax-Exempt Bond Authority, provided that they meet all of the other requirements of this Program Description.

### **Part III: Receipt of Applications**

The applicant must submit an original application and **ONE COPY** with content, formatting, and pagination identical to the 2004 Low-Income Housing Tax Credit and Multifamily Tax-Exempt Bond Authority Application. Only complete applications will be accepted and they will be accepted only at the Tennessee Housing Development Agency, 404 James Robertson Parkway, Suite 1114, Nashville, Tennessee, 37243. (applications by express delivery services should be sent to the same address, but at Zip Code 37219-1522). Applications submitted prior to the beginning of the application period indicated in Part IV will be reviewed following the beginning of the application period as indicated in Part V. No application or parts of applications will be accepted at any other location and no application or parts of applications will be accepted via facsimile transmission. All documents submitted to THDA must bear original signatures.

### **Part IV: Application Submission Period**

Applications will be opened beginning February 13, 2004. No application will be accepted after 1:00 PM CST October 29, 2004. Applications resubmitted under Part VIII B. will be treated as new applications.

### **Part V: Review of Applications for Completeness**

#### **A. Applications must be complete.**

An application must be complete, as determined by THDA in its sole discretion, based on the requirements in this Program Description and the attached application. Incomplete applications will be returned to the applicant. THDA may request additional documentation and/or information for purposes of clarification. An applicant may request a determination from THDA's Executive Director or Deputy Executive Director regarding the reasonableness of such a request.

#### **B. Information must be current.**

1. Appraisal and market information older than six months, as determined by the date prepared and information contained therein will not be considered current or complete. Supplemental documentation, including any commitments, should not have expired if they contain an expiration date, or the application will not be

considered complete. Documents indicating approval dates that have passed will not meet application requirements. Applications with such documents will be considered incomplete.

2. A resolution authorizing the issuance of bonds passed by the relevant issuing entity must be current and valid at the time of application. The applicant should coordinate any updates that may be required for the resolution to remain in effect. Information submitted that is not current will not be accepted by THDA and will cause the application to be deemed incomplete. Any information or documentation, which is not current or complete, will impair an applicant's chances of receiving tax-exempt bond authority.

**C. Responsibility for complete and current information**

It is the sole responsibility of the applicant to submit a complete application with current information.

**D. Multiple Applications for a Single Development**

1. Multiple applications submitted as separate phases of one development will be considered as one development and reviewed as one application. THDA reserves the right to request additional information or documentation, if necessary, to determine if applications submitted will be considered and reviewed as one or more developments.
2. Only one application may be submitted and be considered for a development. THDA reserves the right to request additional information or documentation to determine if applications submitted will be considered and reviewed as one or more developments.

**Part VI: Scoring Process and Allocation Per Grand Division**

- A. All applications will be scored according to the criteria described in Part VII.
- B. Tax-exempt bond authority will be allocated on a first come, first served basis to eligible applicants by Grand Division until the total amount of authority available in each Grand Division is allocated. If THDA receives multiple eligible applications on the same day that, in the aggregate, request more authority than is available, those applications will be ranked according to Part VI D. The process of allocating authority within Grand Divisions will end with the last complete eligible application that can be allocated the full amount of authority requested in any Grand Division.  
**No partial allocations of authority will be made prior to July 2, 2004.**
- C. If there is any tax-exempt bond authority remaining in any Grand Division, or if any additional tax-exempt bond authority is recaptured or released, any such amounts shall remain available first to qualified applicants in that same Grand Division until July 1, 2004. THDA will issue a commitment of tax-exempt bond authority to each eligible application in each Grand Division until the final amount of available tax-exempt bond authority is exhausted. Following July 1, 2004, any remaining tax-exempt bond authority will be available statewide on a first come, first served basis to eligible applicants. The limits specified in Part I G of the 2004 Multifamily Tax-Exempt bond Authority Program Description will not apply. THDA will not issue commitments for 2004 Multifamily Tax-Exempt Bond Authority after November 15, 2004.

**D. Multiple Applications Received on the Same Day**



1. If, on or before July 1, 2004, THDA receives multiple eligible applications for the same Grand Division on the same day that, in the aggregate, request more authority than is available in that Grand Division, the eligible applications will be ranked in ascending order by authority requested per unit and priority will be given to the eligible application(s) with the lowest authority requested per unit. If two or more eligible applications request the same amount of authority per unit, the eligible applications will be ranked in ascending order by authority requested per square foot of heated, residential floor space reserved for low-income tenants and priority will be given to the eligible application(s) with the lowest authority requested per square foot of heated, residential floor space reserved for low-income tenants.
2. If, after July 1, 2004, THDA receives multiple eligible applications on the same day that, in the aggregate, request more authority than is available, the eligible applications will be ranked in ascending order by authority requested per unit and priority will be given to the eligible application(s) with the lowest authority requested per unit. If two or more eligible applications request the same amount of authority per unit, the eligible applications will be ranked in ascending order by authority requested per square foot of heated, residential floor space reserved for low-income tenants and priority will be given to the eligible application(s) with the lowest authority requested per square foot of heated, residential floor space reserved for low-income tenants.

**Part VII: Scoring Criteria (FROM 2004 LIHTC QAP)**

Points will be awarded, as indicated below, to applications demonstrating that they meet the following conditions:

**A. Development Location and Housing Needs: Maximum 70 Points**

1. Developments located in counties with the greatest rental housing need (Exhibit 2): Maximum 60 points
2. Developments Located in Identified Areas of Affordable Housing Need: Maximum 10 points
  - a. Developments located completely and entirely in a Qualified Census Tract or a Difficult to Develop Area as designated by HUD (identified on **Exhibit 6**): **9 points**

**OR**

- b. Developments located completely and entirely in a Qualified Census Tract (identified on Exhibit 6, excluding Difficult to Develop Areas), the development of which contributes to an approved concerted community revitalization plan, as certified in the form of Attachment 23, by the chief executive of the jurisdiction within which the development is located: 10 points

**OR**

- c. Developments located completely and entirely within a census tract (other than a Qualified Census Tract) that is, itself, completely and entirely within an area covered by an approved community revitalization plan, as certified, in the form of Attachment 23, by the chief executive of the jurisdiction within which the development is located: 6 points

**B. Development Characteristics: Maximum 45 Points**

1. Developments restricting a minimum of twenty-five percent (25%) of the low-income units to maximum rents no greater than a percentage of the lesser of (a) the maximum allowable LIHTC net rents or (b) the maximum attainable net rents specified in the market study.

<u>Percentage</u>	<u>Points</u>
90	<b>1 point</b>
80	<b>3 points</b>
70	<b>5 points</b>

2. New Construction Only

- a. Developments not involving rehabilitation that include written documentation from the appropriate local governmental authority demonstrating that current zoning and other local land use regulations permit the development as proposed or that no such regulations currently apply to the proposed development: 5 points
- b. Developments not involving rehabilitation designed and built to promote energy conservation by meeting the standards of the Council of American Building Officials Model Energy Code. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D: 10 points
- c. Developments not involving rehabilitation designed and built to meet a 15-year maintenance-free exterior standard. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D: 10 points
- d. Developments not involving rehabilitation designed and built with a minimum of 60% brick exterior. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D: 15 points

3. Rehabilitation Only

- a. Developments involving replacement of one or more major building components as identified in the physical needs assessment. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D. For purposes of this Program Description, major building components are roof structures, wall structures, floor structures, foundations, plumbing systems, central heating and air conditioning systems, and electrical systems. "Major" refers to the importance of the

building component and the extent of replacement. The building component must be significant to the building and its use, normally expected to last the useful life of the structure, and not be minor or cosmetic (e.g. major – roof sheathing, rafters, framing members; minor – shingles, built-up roofing). Total replacement of a building component is not required, however a minimum of fifty percent (50%) of the building component must be replaced.

<u>Number of systems replaced</u>	<u>Points</u>
1	<b>10 points</b>
2	<b>25 points</b>
3 or more	<b>35 points</b>

4. Combination of New Construction and Rehabilitation

- a. For developments involving a combination of new construction and rehabilitation, points will be prorated based on the percentage of units in each category.

**C. Developer and Consultant Fees: Maximum 20 Points**

1. Initial Applications reflecting a combined total developer and consultant fee (as defined in Part I H) with the following limits:

<u>Combined Fees</u>	<u>Points</u>
0% - 9.99%	<b>20 points</b>
10% - 13%	<b>10 points</b>

**D. Special Housing Needs: Maximum 15 Points**

1. Development with units designed and built for large families, (i.e., three or more bedrooms). Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D.

<u>Percent of Units</u>	<u>Points</u>
8%-10%	<b>5 points</b>
above 10%	<b>10 points</b>

**OR**

2. At least fifty percent (50%) of the units designed and built for single room occupancy. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D: 5 points

**OR**

3. One hundred percent (100%) of the units designed, built and occupied by the elderly. All tenants must be age 62 or older or at least one person in each unit must be 55 or older and policies and procedures must be in place that demonstrate an intent to make units available to persons who are 55 or older. Certification from the design architect will be required on developments of 11

units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D:  
5 points

**AND**

4. The greater of one unit or at least five percent (5%) of the total number of units in the development (which number shall be rounded up) must be designed and constructed to be fully equipped for persons with disabilities. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, following the issuance of the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to refund of any fees pursuant to Part X D. These points may be claimed in conjunction with 1. or 2. or 3. above to a maximum of 15 points: 5 points
5. An application may meet the requirements for more than one of the preceding special needs categories, but no more than 15 points will be awarded.

**E. Lowest Income Preference: Maximum 40 Points**

1. Election to set aside a minimum of ten percent (10%) of the units for households with incomes no higher than fifty percent (50%) of the area median income with rents maintained at or below 50% of area median income: 30 points

**OR**

2. Election to set aside a minimum of twenty percent (20%) of the units for households with incomes no higher than fifty percent (50%) of the area median income with rents maintained at or below 50% of area median income: 40 points

**F. Public Housing Priority: 10 Points**

Marketing plans, lease-up plans, and operating policies and procedures which will give a priority to persons on current Public Housing waiting lists or to persons with Section 8 Housing Choice Vouchers in counties with high Section 8 voucher turnover. Initial Applications with proposed developments in areas reflected on **Exhibit 8** are eligible for these points.

**G. Tennessee Growth Policy Act: 15 points**

Initial Applications with proposed developments located completely and wholly in a county or municipality with a growth plan approved by the local government planning advisory committee as determined by the Tennessee Advisory Commission on Intergovernmental Relations and reflected on **Exhibit 5**. Initial Applications with proposed developments in counties not subject to the Tennessee Growth Policy Act, as shown on **Exhibit 5**, will receive these 15 points.

**H. Sponsor Characteristics: Maximum 70 points (TAX CREDIT APPLICANTS ONLY)**

1. If none of the following has occurred in Tennessee at any time during calendar year 2002 or calendar year 2003 with respect to individuals involved (either directly or indirectly) with the developer or the ownership entity (whether formed or to be formed) identified in the Initial Application: 50 points

- a. A reservation of Tax Credits was issued and accepted for a development that the individuals identified above were involved with (either directly or indirectly) through the developer or owner, yet a Carryover Allocation was not obtained; or
  - b. A Carryover Allocation was made to a development that the individuals identified above were involved with (either directly or indirectly) through the developer or owner, yet an IRS Form 8609 was not obtained; or
  - c. An allocation of Tax Credits was made to a development that the individuals identified above were involved with (either directly or indirectly) through developer or owner, but the development failed to meet the minimum set-aside for low-income tenants as specified in the land use restrictive covenants.
2. Development qualified for the Public Housing Authority Set-Aside using the HOPE VI Program with HOPE VI funds used as part of the financing for the development: Only Initial Applications qualified for the Public Housing Authority Set-Aside using the HOPE VI Program as described in Part VII-A-2-b-(ii) are eligible for these points:

HOPE VI Funds as a Percentage of Total Financing for this Development (including <u>tax credit syndication proceeds</u> )	<u>Points</u>
5%	<b>5 points</b>
10%	<b>10 points</b>
20%	<b>20 points</b>

**I. Extended Use Preference or Tenant Ownership: Maximum 20 Points (TAX CREDIT APPLICANTS ONLY)**

**Choose only one below, 1. OR 2.**

1. Extended Use Preference: Maximum 20 Points

A binding commitment to extend the point in time at which the written request specified in Section 42(h)(6)(I) may be given:

Number of <u>Years</u>	<u>Points</u>
At least 5 years	<b>20 points</b>
At least 4 years, but less than 5 years	<b>15 points</b>
At least 3 years, but less than 4 years	<b>10 points</b>

**OR**

2. Eventual Tenant Ownership: 5 points

A binding commitment to offer the tenant of a single family building at the end of the fifteen-year tax credit compliance period a right of first refusal to purchase the property. The owner must provide to THDA a detailed plan with the Initial Application, specifically including how the owner will set aside a portion of the rent beginning in year two (2) of the compliance period to provide sufficient funds to the tenant at the end of the compliance period for the down payment and the closing costs to purchase the unit. The plan will be required to be updated and submitted to THDA again for approval in year 13 of the

compliance period. The Restrictive Covenant Agreement will contain provisions ensuring enforcement of this provision.

### **Part VIII: Eligibility Determination and Completeness Notification**

#### **A. Notice to Applicants Meeting Eligibility Requirements**

1. THDA will notify each applicant when the eligibility determination and scoring of the application is complete.
2. If THDA determines that an application meets all of the eligibility requirements of this Program Description, the notice will include information about the number of eligible applicants received before this applicant and the status of the allocations per Part VI. A Commitment Letter (see Part IX) may be issued in lieu of this information.

#### **B. Notice to Applicants Not Meeting Eligibility Requirements or Incomplete**

1. If THDA determines that an application does not meet one or more of the requirements of this Program Description, THDA will provide the applicant with a notice describing the items that were erroneous, missing, incomplete, or inconsistent. The applicant shall have five (5) THDA business days from the date of the notice to correct items deemed to be erroneous, missing, incomplete, or inconsistent. THDA will also notify applicants if THDA determines that (a) any two or more developments proposed in two or more applications constitute a single development for purposes of applying the development limits specified in Part I F or (b) developers or related parties reflected in two or more applications constitute a single entity for purposes of applying the developer or related party limitation specified in Part I G.
2. If the applicant fails to correct all items deemed to be erroneous, missing, incomplete, or inconsistent during the period of five (5) THDA business days, THDA will return the application to the applicant.
3. Applicants may cure the deficiencies and resubmit the returned application, in accordance with Part IV. The resubmitted application will be treated as a new application in accordance with Part IV. A resubmission fee may be due as described in Part X B.

### **Part IX: THDA Commitment for Volume Cap**

#### **A. Issuance of Commitments**

1. All commitments, as described below, will be issued only to the relevant local issuing authority, and will be valid only to provide permanent financing for a specific applicant, for a specific development, on a specific site. Any change in the applicant entity, the ownership entity, or in the size, nature, or other characteristics of the development; may, in THDA's sole discretion, invalidate the commitment. Under no condition may the site proposed for the development be changed to another site. The applicant and the local issuing authority are obligated to report any such changes to THDA regardless of whether such changes occur prior to or after the issuance of a Commitment Letter.
2. **For the commitment to be valid, the applicant and the issuer must comply with all of the terms stated in the Commitment Letter, which might include**

compliance with performance requirements related to any other development for which tax-exempt bonds have been issued.

3. For successful applications for 2004 tax-exempt bond authority pursuant to this Program Description, THDA will issue a Commitment Letter stating the terms of the commitment.

#### **B. Expiration of Commitment**

1. Once a THDA Commitment Letter is issued, it is valid for a maximum of 90 days from the date specified in the Commitment Letter. The bonds must be used to provide the permanent financing for the development, the local issuer must issue and sell the bonds, and the sale must be closed on or before the date specified in the Commitment Letter, otherwise the commitment expires and the authority allocated automatically reverts to THDA.
2. THDA, in its sole discretion, may extend the date and time for closing the sale of the bonds beyond 1 PM (Central Time) on the date specified in the Commitment Letter. A written request for an extension must be received by THDA a minimum of five (5) business days prior to the expiration of the Commitment Letter in order for the request to be considered. THDA will not approve requests for extensions of more than ten (10) business days. If an extension is granted, the Incentive Fee WILL NOT be refunded.
3. Closings in escrow, or any form of contingent closing are not considered "closed" for purposes of expiration of the commitment.

#### **Part X: Fees, Partial Refunds of Fees, and Fees Retained by THDA**

##### **A. Application Fee**

An Application Fee of one thousand dollars (\$1,000) must be submitted to THDA at the time an application is submitted. THIS FEE IS NOT REFUNDABLE. If the fee is not submitted at the time an application is submitted, the application is incomplete and will be returned. Applications returned for this reason must submit the full one thousand dollar (\$1,000) Application Fee if resubmitted.

##### **B. Resubmission Fee**

A Resubmission Fee of seven hundred and fifty dollars (\$750) must be submitted to THDA if an application is resubmitted following the resubmission deadline specified in the notice described in Part VIII B.

##### **C. Commitment Fee and Incentive Fee**

1. Applications receiving a commitment from THDA for a specific amount of tax-exempt bond authority must submit a Commitment Fee and an Incentive Fee prior to the commitment being valid.
2. The Commitment Fee will be an amount equal to one percent (1%) of the bond authority allocated to the local issuer.
3. The Incentive Fee will be equal to twenty percent (20%) of the Commitment Fee.

##### **D. Refund of Commitment Fee and Incentive Fee**

1. One half (1/2) of the Commitment Fee will be refunded when: (1) documentation from the issuing authority's bond counsel, including copies of State of Tennessee form CT-0243 and IRS form 8038, are provided to THDA

demonstrating that the bonds have been issued and sold; and (2) certificates of occupancy in a form acceptable to THDA are furnished to THDA; and (3) all THDA requirements have been satisfied; and (4) all forms to be filed by the issuing authority have been completed and filed to THDA's satisfaction.

2. If all the conditions of Part X D 1 have been met and the bonds were issued and sold on or before 1 PM (Central Time) on the date specified in the Commitment Letter, THDA will refund the Incentive Fee.

#### **E. Release of Commitments and Partial Refund of Commitment Fee**

1. Commitments may be released by notifying THDA, in writing, prior to the expiration of the commitment, that the bonds will not be issued.
2. A commitment which is released according to these requirements will receive a refund of seventy-five percent (75%) of the Commitment Fee. THDA will retain twenty-five percent (25%) of the Commitment Fee.

#### **F. Commitment Fee and Incentive Fee Retained by THDA**

1. If the bonds are not issued by the expiration date of the commitment, and the commitment has not been released according to Part X D, THDA will retain the full amount of the Commitment Fee and the full amount of the Incentive Fee. **NONE** of the Commitment Fee and **NONE** of the Incentive Fee will be refunded to the applicant.
2. If the bonds are issued and sold, but the development is not placed in service, THDA will retain the full amount of the Commitment Fee and the full amount of the Incentive Fee. **NONE** of the Commitment Fee and **NONE** of the Incentive Fee will be refunded to the applicant.
3. If a request for an extension to the deadline for closing the sale of the bonds beyond 1 PM (Central Time) on the date specified in the Commitment Letter is approved in accordance with Part IX B. 2., **NONE** of the Incentive Fee will be refunded to the applicant.

### **Part XI: Application for Low-Income Housing Tax Credits**

THDA retains the authority to determine eligibility to receive non-competitive Tax Credit and the amount of non-competitive Tax Credit to be allocated to the development, up to the maximum amount eligible with tax-exempt financing. Any applicant for non-competitive Tax Credit will be subject to all fees and requirements stated in the State of Tennessee's Tax Credit Qualified Allocation Plan for 2004, including monitoring fees.

If a development is the subject of a pending **competitive** 2004 Tax Credit application and subsequently becomes the subject of a 2004 Multifamily Tax-Exempt Bond Authority application, the issuance of a Commitment Letter in accordance with Part IX-A of this Program Description shall constitute the withdrawal of the **competitive** Tax Credit application.

The maximum obtainable rents supported by the market study will be expected to support reasonable operating expenses and maximum mortgage debt service prior to Tax Credits filling any financial "gaps". This may require that the development obtain additional financing from other sources over and above the maximum amount of tax-exempt bond authority or non-competitive Tax Credit committed to the development by THDA.



**Part XII: Information and Applications**

THDA staff will attempt to assist with information in completing an application, however if clarification or interpretation is required, an interested party should submit their specific request in writing to THDA.

**For more information call:**

**Ed Yandell, Director of Multifamily and Special Programs, THDA  
(615) 741-9666**

**Information about the program is available on the THDA web site at:  
<http://www.state.tn.us/thda>**