



## Tennessee Housing Development Agency

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### MEMORANDUM

**TO:** All interested parties

**FROM:** Multifamily Development Division

**DATE:** November 2, 2006

**SUBJECT:** Draft 2007 Multifamily Tax-Exempt Bond Authority Program Description

The following document is the initial draft of the 2007 Multifamily Tax-Exempt Bond Authority Program Description. 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. 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 2007 Multifamily Tax-Exempt Bond Authority Program Description.

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**TENNESSEE HOUSING DEVELOPMENT  
AGENCY**

**~~2006~~DRAFT 2007 MULTIFAMILY TAX-EXEMPT  
BOND AUTHORITY PROGRAM DESCRIPTION**

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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**

# Tennessee Housing Development Agency Multifamily Tax-Exempt Bond Authority

## 20062007 Summary

- **THDA has authorized the allocation of Multifamily Tax-Exempt Bond Authority to local issuers for multifamily developments:**
  - **\$150 million in Multifamily Tax-Exempt Bond Authority** for developments which will close permanent financing by the date specified in the Commitment Letter. \$50,000,000 will be available in East Tennessee, \$50,000,000 will be available for Middle Tennessee, and \$50,000,000 for West Tennessee. Any unused, recaptured or released amounts after July 4<sup>2</sup>, 20062007 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 Multifamily Tax-Exempt Bond Authority will be available to the next highest ranking application regardless of Grand Divisions until the end of the application submission period as defined in Part IV.
- **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.
- For developments involving new construction, THDA will allocate **a maximum of ten million dollars (\$10,000,000)** in Multifamily Tax-Exempt Bond Authority per development.
- For developments involving conversion and/or acquisition, THDA will allocate **a maximum of fifteen million dollars (\$15,000,000)** in Multifamily Tax-Exempt Bond Authority per development.
- The application submission period extends until the earlier of (i) the date upon which all Multifamily Tax-Exempt Bond Authority made available hereunder is fully committed or (ii) the first date applications will be accepted under a Multifamily Tax-Exempt Bond Authority Program Description as may be adopted by THDA for 20072008.
- Multifamily 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 Multifamily Tax-Exempt Bond Authority than is available, those applications will be ranked according to Part VI-E.
- **Applicants must meet THDA and federal tax requirements and all other applicable federal, State, and local laws or ordinances.**
- **A non-refundable \$1,500 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 Multifamily Tax-Exempt 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 Judith Smith at (615) 253-5318.

# Tennessee Housing Development Agency

## Multifamily Tax-Exempt Bond Authority for ~~2006~~2007

### Program Description

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

The Tennessee Housing Development Agency (THDA) is making Multifamily Tax-Exempt Bond Authority available to local issuers for permanent financing for multifamily housing units in Tennessee. Part of this Multifamily Tax-Exempt Bond Authority is available in each of the three Grand Divisions of the State. The Multifamily 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 Multifamily Tax-Exempt Bond Authority:**

1. Any Multifamily Tax-Exempt Bond Authority allocated pursuant to this Program Description must be used to provide permanent financing for the development. The Multifamily 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-D) of Multifamily Tax-Exempt Bond Authority must issue bonds no later than 1:00 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 percent (20%) of building acquisition 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; line item #12 on page 7 of the application; divided by total number of units in the proposed development) must not exceed \$110,000.

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

- 1. A development involving new construction may not receive more than ten million dollars (\$10,000,000) of Multifamily Tax-Exempt Bond Authority.
- 2. A development involving conversion and/or acquisition and rehabilitation may not receive more than fifteen million dollars (\$15,000,000) of Multifamily Tax-Exempt Bond Authority according to the following:

<u>Major components replaced</u>	<u>max. Multifamily Tax-Exempt Bond Authority</u>
Less than 2	\$10,000,000
2	\$13,000,000
3 or more	\$15,000,000

Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer. Confirmation from the design architect or contractor, as appropriate, will be required prior to refund of the Commitment Fee or Incentive Fee in accordance with Part X-D-1.

For purposes of this ~~2006~~2007 Multifamily Tax-Exempt Bond Authority 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.

**G. Maximum Amount of Multifamily Tax-Exempt Bond Authority per Developer or Related Parties**

The maximum amount of Multifamily Tax-Exempt Bond Authority that may be committed to a single applicant, developer, owner, or related parties shall not exceed twenty million dollars (**\$20,000,000**). If ~~2005~~2006 Multifamily Tax-Exempt Bond Authority was exchanged for ~~2006~~2007 Multifamily Tax-Exempt Bond Authority pursuant to Part IX-C of the ~~2005~~2006 Multifamily Tax-Exempt Bond Authority Program Description, any amount of ~~2006~~2007 Multifamily Tax-Exempt Bond Authority shall count against the maximum amount of Multifamily Tax-Exempt Bond Authority that may be committed to a single applicant, developer, owner, or related parties pursuant to this Part I-G. 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 support 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. Minimum Score Required**

The application must receive at least 70 points under Part VII.

#### **M. 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: Multifamily Tax-Exempt Authority Available**

- A. One hundred and fifty million dollars (\$150,000,000) of Multifamily Tax-Exempt Bond Authority is available during the application submission period described in Part IV.**
- B. A total of fifty million dollars (\$50,000,000) of 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. An amount of ~~2007–2008~~ Multifamily Tax-Exempt Bond Authority equal to the amount of ~~20062007~~ Multifamily Tax-Exempt Bond Authority, if any, that remains uncommitted as of December 31, ~~20062007~~ will be available, subject to this program description and subject to an allocation of ~~2007–2008~~ tax-exempt bond authority to THDA.
- D. Recipients are eligible for commitments for 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 attached application. Only complete applications will be accepted and they will be accepted only at the Tennessee Housing Development Agency, 404 James Robertson Parkway, Suite ~~42001114~~, Nashville, Tennessee, 37243-0900. (applications by express delivery services should be sent to the same address, but at Zip Code 37219-~~15981522~~). 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**

No application will be accepted after 1:00 PM Central Time on the earlier of (i) the date upon which the amount of Multifamily Tax-Exempt Bond Authority made available

hereunder is fully committed pursuant to Commitment Letters issued under Part IX of this Program Description or (ii) the day prior to the first date applications will be accepted under a Multifamily Tax-Exempt Bond Authority Program Description as may be adopted by THDA for ~~2007-2008~~ (the "~~2007-2008~~ Effective Date"). Applications resubmitted under Part VIII-B will be treated as new applications. No applications submitted under this program description will have priority or be considered under any Multifamily Tax-Exempt Bond Authority Program Description THDA may develop for ~~2007-2008~~. New applications must be submitted for allocations of ~~2007-2008~~ Multifamily Tax-Exempt Bond Authority following the ~~2007-2008~~ Effective Date and such new applications will be subject to all requirements of any Multifamily Tax-Exempt Bond Authority Program Description THDA may develop for ~~2007-2008~~, except for applications submitted within the application submission period described herein and for which Commitment Letters are issued under Part IX-C and D. Any application received on the ~~2007-2008~~ Effective Date will be handled and evaluated under the ~~2007-2008~~ Multifamily Tax-Exempt Bond Authority Program Description.

### **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 Multifamily 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 below. An application must receive at least 70 points to be eligible to receive Multifamily Tax-Exempt Bond Authority.
- B. Multifamily 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 Multifamily Tax-Exempt Bond Authority available in each Grand Division is allocated. If THDA receives multiple eligible applications on the same day that, in the aggregate, request more Multifamily Tax-Exempt Bond Authority than is available, those applications will be ranked according to Part VI E. The process of allocating Multifamily Tax-Exempt Bond Authority within Grand Divisions will end with the last complete eligible application that can be allocated in any Grand Division.
- C. If there is any Multifamily Tax-Exempt Bond Authority remaining in any Grand Division, or if any additional Multifamily 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 ~~12, 2006~~2007. THDA will issue a commitment of Multifamily Tax-Exempt Bond Authority to each eligible application in each Grand Division until the final amount of available Multifamily Tax-Exempt Bond Authority is exhausted.
- D. Following July ~~12, 2006~~2007, any remaining Multifamily Tax-Exempt Bond Authority will be available statewide on a first come, first served basis to eligible applicants until the end of the application period specified in Part IV above and subject to all other requirements of this Program Description. The limits specified in Part I-G will not apply.

#### **E. Multiple Applications Received on the Same Day**

1. If, on or before July ~~12, 2006~~2007, THDA receives multiple eligible applications for the same Grand Division on the same day that, in the aggregate, request more Multifamily Tax-Exempt Bond Authority than is available in that Grand Division, the eligible applications will be ranked in ascending order by Multifamily Tax-Exempt Bond Authority requested per unit and priority will be given to the eligible application(s) with the lowest Multifamily Tax-Exempt Bond Authority requested per unit. If two or more eligible applications request the same amount of Multifamily Tax-Exempt Bond Authority per unit, the eligible applications will be ranked in ascending order by Multifamily Tax-Exempt Bond 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 Multifamily Tax-Exempt Bond Authority requested per square foot of heated, residential floor space reserved for low-income tenants.
2. If, after July ~~12, 2006~~2007, THDA receives multiple eligible applications on the same day that, in the aggregate, request more Multifamily Tax-Exempt Bond Authority than is available, the eligible applications will be ranked in ascending order by Multifamily Tax-Exempt Bond Authority requested per unit and priority will be given to the eligible application(s) with the lowest Multifamily Tax-Exempt Bond Authority requested per unit. If two or more eligible

applications request the same amount of Multifamily Tax-Exempt Bond Authority per unit, the eligible applications will be ranked in ascending order by Multifamily Tax-Exempt Bond 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 Multifamily Tax-Exempt Bond Authority requested per square foot of heated, residential floor space reserved for low-income tenants.

### **Part VII: Scoring Criteria**

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

#### **A. Meeting Housing Needs: (Maximum 50 points)**

1. Developments located in counties where the annual median income is less than eighty percent (80%) of the state median (**Exhibit 1**). (25 points)
2. Developments in counties with the greatest rental housing need (**Exhibit 2**). (Maximum 20 points)
3. Developments located wholly and completely in a Qualified Census Tract or a Difficult to Develop Area as designated by HUD (**Exhibit 4**): (5 points)

#### **B. Development Characteristics: (Maximum 35 points)**

1. Developments 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, as specified in the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to any partial refund of the Commitment Fee pursuant to Part X D: (10 points)
2. Developments designed and built using brick, stone, cement fiber siding, or vinyl 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, as specified in the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to any partial refund of the Commitment Fee pursuant to Part X D: (10 points)
3. Developments designed and built with a minimum of 85% of the exterior wall surfaces below the plate line covered with brick, stone, or cement fiber siding. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or fewer, as specified in the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to any partial refund of the Commitment Fee pursuant to Part X D: (15 points)
4. 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, as specified in the Commitment Letter. Confirmation from the supervising architect or contractor, as appropriate, will be required prior to any partial refund of the Commitment Fee 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	15 points
2	25 points
3 or more	35 points

3. 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. Serving Special Populations: (Maximum 50 points)**

1. 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 any partial refund of the Commitment Fee pursuant to Part X D: (5 points)
2. 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 fully meet accessibility requirements 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 any partial refund of the Commitment Fee pursuant to Part X D: (5 points)
3. 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: (40 points) NOTE: Election of points under this Part VII-C-3 shall constitute an election of points under Part VII-B-5-b of the ~~2006~~2007 Low-Income Housing Tax Credit Qualified Allocation Plan with regard to an application for noncompetitive Low-Income Housing Tax Credit.

**D. Increasing Housing Stock: (25 points)**

Developments which are new construction or are conversions of buildings not being used for housing which make them usable as housing: (25 points)

**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 eligibility requirements of this Program Description or is incomplete, THDA will return the application with notice to the applicant describing items that were 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. Applicants may cure the deficiencies and resubmit the 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. a. All commitments, as described in this Part IX, will be issued in the form of a letter 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 (the "Commitment Letter"). 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.
  - b. 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.
2. For successful applications for Multifamily Tax-Exempt Bond Authority pursuant to this Program Description, THDA will issue a Commitment Letter stating the terms of the commitment.
3. Commitment Letters will not be issued if the amount of Multifamily Tax-Exempt Bond Authority made available hereunder is fully committed.

#### **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 Multifamily Tax-Exempt Bond 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 1:00 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.

**C. Commitment Letters Issued Between October 3, ~~2006~~2007 and December 31, ~~2006~~2007**

1. The 90 day period specified in the Commitment Letter will extend beyond December 31, ~~2006~~2007, however, no carryforward of ~~2006~~2007 Multifamily Tax-Exempt Bond Authority will be permitted for bond closings that occur after December 31, ~~2006~~2007.
2. THDA will extend the 90 day period specified in the Commitment Letter for a number of days equal to the number of days between January 1, ~~2007~~2008 and the date upon which THDA receives an allocation of tax-exempt bond authority for ~~2007~~2008. This extension will not affect the Incentive Fee, however, Part IX-B-2 will apply to any other extensions requested.
3. The Commitment Letter will specify the procedure by which ~~2006~~2007 Multifamily Tax-Exempt Bond Authority may be exchanged for ~~2007~~2008 Multifamily Tax-Exempt Bond Authority, subject to THDA's receipt of ~~2007~~2008 tax-exempt bond authority. Such an exchange will not extend the 90 day period specified in the Commitment Letter, except as specified in Part IX-C-2 above.
4. Any failure to meet the requirements specified in the Commitment Letter to exchange ~~2006~~2007 Multifamily Tax-Exempt Bond Authority for ~~2007~~2008 Multifamily Tax-Exempt Bond Authority will result in the recapture of the ~~2006~~2007 Multifamily Tax-Exempt Bond Authority referenced in the Commitment Letter by THDA and no subsequent eligibility for ~~2007~~2008 Multifamily Tax-Exempt Bond Authority.

**D. Commitment Letters Issued Between January 1, ~~2007~~2008 and the ~~2007~~2008 Effective Date**

1. No Commitment Letters will be issued for applications submitted between January 1, ~~2007~~2008 and the ~~2007~~2008 Effective Date if no ~~2006~~2007 Multifamily Tax-Exempt Bond Authority was uncommitted as of December 31, ~~2006~~2007.
2. Commitment Letters issued between January 1, ~~2007~~2008 and the ~~2007~~2008 Effective Date will reflect a commitment of ~~2007~~2008 tax-exempt bond authority, subject to the availability of ~~2007~~2008 tax-exempt bond authority by THDA and limited to a maximum collective amount of ~~2007~~2008 tax-exempt bond authority equal to the amount of ~~2006~~2007 tax-exempt bond authority uncommitted as of December 31, ~~2006~~2007.
3. No Commitment Letters will be issued under the ~~2006~~2007 Multifamily Tax-Exempt Bond Authority Program Description on or after the ~~2007~~2008 Effective Date.

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

### **A. Application Fee**

An Application Fee of one thousand five hundred dollars (\$1,500) 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 five hundred dollar (\$1,500) 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 Multifamily 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 Multifamily Tax-Exempt 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, without limitation, a Closing Confirmation Letter in the form of **Exhibit 6**) is provided to THDA that the bonds have been issued and sold; and (2) acceptable proof is furnished to THDA that all units are constructed and the facility is placed in service; and (3) all THDA requirements, including, if applicable, the certification required in Part I-F-2, 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 1:00 PM Central Time on the date specified in the Commitment Letter, THDA will refund the Incentive Fee.
3. If ~~2006~~2007 Multifamily Tax-Exempt Bond Authority is exchanged for ~~2007~~2008 Multifamily Tax-Exempt Bond Authority in accordance with the provisions of Part IX-C-3 above, the Commitment Fee will be refunded in the event that THDA does not receive ~~2007~~2008 tax-exempt bond authority.

### **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 1:00 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**

If the development also seeks non-competitive Low-Income Housing Tax Credit (“non-competitive Tax Credit”), a separate application must be submitted to Tennessee Housing Development Agency to request the non-competitive Tax Credit. Receipt of authority to issue tax-exempt bonds does not guarantee receipt of non-competitive Tax Credit. 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 development seeking non-competitive Tax Credit must apply for non-competitive Tax Credit in the same calendar year in which the tax-exempt bonds are issued. THDA will conduct an eligibility and scoring review with regard to a non-competitive Tax Credit application submitted in conjunction with an application for Multifamily Tax-Exempt Bond Authority within forty-five (45) days of THDA’s receipt of such non-competitive Tax Credit application. Any applicant for non-competitive Tax Credit will be subject to all fees and requirements stated in the applicable Tax Credit Qualified Allocation Plan, including monitoring fees.

If a development is the subject of a pending **competitive** ~~20062007~~ or ~~2007-2008~~ Tax Credit application and is the subject of an application under the ~~20062007~~ Multifamily Tax-Exempt Bond Authority Program Description, 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 Multifamily 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:**  
**Judith Smith at (615) 253-5318**  
**Information is available on the THDA web site at: [www.tennessee.gov/thda](http://www.tennessee.gov/thda)**