

# **Arkansas Development Finance Authority**

## **2004 Guidelines for Allocating Multi-Family Tax Exempt Private Activity Volume Cap**

**Adopted by the Board of Directors  
July 17, 2003**



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**I. INTRODUCTION.**

The Arkansas Development Finance Authority (“ADFA”) has as one of its primary purposes, the creation and preservation of affordable housing for low and moderate income persons. ADFA has available tax-exempt bond authority to provide financing to private developers for the development of multi-family housing. In return for receiving below market interest rate financing, the developer is required to set aside units in the development for low and moderate income families and persons. The tax-exempt multi-family housing program is intended to encourage the creation of new rental housing units as well as the rehabilitation of existing rental units.

**II. USE OF PRIVATE ACTIVITY VOLUME CAP.**

Any tax-exempt bond authority allocated pursuant to this program must be used to provide permanent financing for the development. The authority is not intended for short-term escrow financing, construction financing or any other financing, which is not permanent financing for the development. All units must be rental units and be “complete” units.

**III. FEDERAL TAX REGULATIONS AND REQUIREMENTS.**

The applicant is responsible for understanding and following all applicable tax law requirements for the proposed project.

**IV. AVAILABLE TAX-EXEMPT MULTIFAMILY PRIVATE ACTIVITY VOLUME CAP.**

**A. FIRST FUNDING ROUND.**

Approximately Twenty-two Million Five Hundred Thousand Dollars (\$22,500,000) will be available in January 2004.

**B. ADDITIONAL FUNDING ROUND.**

An additional amount may be available depending on potential competing uses of the private activity volume cap and any possible turnback of previously allocated, but unused cap. Notification will be sent to bond counsel and underwriters should volume cap become available.

**V. RECEIPT OF APPLICATION AND APPLICATION DEADLINE.**

For the 2004 Multifamily Private Activity Volume Cap, completion of a 2004 Multi-Family Housing Application is required and compliance with the 2004 Housing Credit Qualified Allocation Plan, including all threshold items and exhibits for issuance of bonds and 4% tax

credits to finance the development. Applicants applying for tax-exempt bonds must utilize the four percent (4%) tax credits. ADFa retains the authority to determine eligibility to receive tax credits and the amount of tax credits to be allocated to the development.

**DEADLINE FOR SUBMISSION OF APPLICATIONS:  
The applicant must submit a complete application to ADFa by  
Thursday, January 8, 2004.**

The deadline for submitting applications is set forth above. Only complete applications will be considered for funding. Facsimiles and e-mails will not be accepted. **All applications must be delivered to ADFa in person, by courier, by overnight mail for next day delivery, or by any other means of physical delivery. If applications are hand delivered, they must be received by 4:30 p.m. on the application deadline date. If applications are mailed they must be mailed via overnight mail, priority, next day for early morning delivery.** Applications may be mailed, or otherwise physically delivered to ADFa at the following address:

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY  
Attn: Multi-Family Housing Department  
423 Main Street, Suite 500  
Little Rock, AR 72201  
Telephone Number: 501-682-5900**

**VI. FEES.**

- A. APPLICATION FEE.** A Five Hundred Dollar (\$500) non-refundable application fee is payable at the time an application is submitted to ADFa. Applications submitted without the application fee will be considered incomplete.
- B. ISSUANCE FEE.** The developer will be responsible for paying a one-time fee of 0.15% based on the principal amount of bonds issued. This fee is payable at the bond closing.
- C. BOND ADMINISTRATIVE/MONITORING FEE.** The owner will be responsible for paying an annual bond administrative/monitoring fee in the amount of an eighth of a percent (0.125%) on the outstanding principal balance of the bonds payable to ADFa annually in arrears.
- D. LIHTC FEES.**
  - 1. RESERVATION OF CREDIT FEE.** A non-refundable reservation fee of One Hundred Dollars (\$100) per low-income unit will be required at the bond closing.

2. **ALLOCATION OF CREDIT FEE.** An allocation of credit fee of One Hundred Dollars (\$100) per low-income unit will be required at the time the credits are allocated (issuance of IRS Form/s 8609).
3. **COMPLIANCE/MONITORING FEE.** A one-time compliance and monitoring fee of 6% of the yearly allocation of credits (amount of annual credits) is required to be paid at the time the credits are allocated (issuance of IRS Form 8609).

**VII. APPRAISAL FEE, MARKET STUDY, ETC.**

The developer will be responsible for paying all costs incurred in providing ADFA with a market study, appraisal, construction cost analysis certification and any other special studies in the event such special study is required by ADFA. The market study must be performed by a market analyst from the ADFA Approved Market Study Firm List. The market study must contain all information outlined in the ADFA Market Study Guidelines. Any market study not meeting these requirements will not meet program threshold requirements for funding.

**VIII. ISSUANCE EXPENSES AND ALL OTHER EXPENSES INCURRED.**

The developer will be responsible for such expenses incurred regardless of whether or not a bond closing occurs. The developer is also responsible for such expenses incurred in the arbitrage rebate calculation.

**IX. REVIEW OF APPLICATION AND APPROVAL PROCESS.**

**A. NOTIFICATION.**

Notification will be sent to all developers, and affordable housing professionals advising them of the availability of volume cap and process for submission of applications.

**B. SUBMISSION OF APPLICATIONS.**

The developer or its representative shall submit a complete application, including all required documentation and application fee to ADFA by the deadline outlined in the Timetable for Allocation and Funding Cycle (below).

**C. REVIEW OF APPLICATIONS.**

Applications are reviewed by staff for completeness, threshold items and all other requirements of the Guidelines for Tax Exempt Bonds and the Qualified Allocation

Plan. ADFA's Multi-Family Housing staff will conduct a review of the Applicant's previous performance under the HOME Program, the Housing Credit program, Tax-Exempt Bond Program, and any affordable housing loan program, including disbursements, payment history, compliance history and any findings with ADFA or any other Housing Finance Authority. The Applicant's performance under the Bond Program to close previous bond transactions within the program requirements will be reviewed and could impact the Board's decision for future funding. Non-performance on previous developments and delinquencies in payments will result in disqualification of an application by the ADFA Board Housing Review Committee.

**D. EXTENSIONS OF THE CLOSING DATE.**

The bond closing must take place within sixty (60) days of the reservation date. If the 60<sup>th</sup> day falls on the weekend or legal holiday, the closing date will be extended to the next business day. Requests for extensions of the closing deadline must be submitted in accordance with the Second Amended Arkansas Development Finance Authority Rules and Regulations Regarding Allocation of the State Volume Cap for Private Activity Bonds.

**E. CREDIT ENHANCEMENT OR PRIVATE PLACEMENT.**

All multi-family transactions must be either Credit Enhanced or placed with a bank, registered investment company, insurance company or "Accredited Investors", as defined in Rule 501 of Regulation D of the U.S. Securities and Exchange Commission, ("Qualified Investors") who are willing to sign Investor Letters stating their qualifications to analyze and gauge risk relating to their investment in such issues. The minimum rating requirement for Credit Enhancement to be eligible for multi-family Bond Issues would be "A" or better by Moodys Investor Service or "A" or better by Standard and Poor's at the time of closing.

Bonds issued and placed with "Accredited Investors," as defined above, would be issued in initial minimum denominations of \$100,000 or any integral multiples of \$5,000 in excess thereof.

**F. NOTIFICATION OF PRESENTATION SCHEDULE.**

Applicants will be notified approximately ten (10) days prior to the February 2004 Board of Directors' meeting to make presentations to ADFA's Joint Staff and Board Housing Review Committee.

**G. PRESENTATION.**

The developer will make a formal presentation to the Joint Committees. The presentation shall include, but is not limited to, discussion of the following:

1. Demonstrated demand for affordable housing in the proposed project locale;
2. Project location;
3. Project size;
4. Unit types and bedroom mix;
5. Projected market and low-income unit mix;
6. Tenants to be served;
7. Proposed financing structure;
8. Readiness to close bond transaction within sixty (60) days;
9. Zoning and site plan approval status;
10. Background and experience of developer and development team;
11. Community support;
12. Energy efficiency/maintenance standards;
12. If project is acquisition/rehabilitation—detailed synopsis of rehabilitation work;
14. Monitoring procedures; and
15. Serving special needs, e.g., elderly housing, housing for persons with physical disabilities; housing for large families.

**H. DECISION OF BOARD HOUSING REVIEW COMMITTEE.**

The Board Housing Review Committee will make its recommendation of selected applications to the Board of Directors. The Board of Directors will approve selected applications at their regular Board meeting.

**I. CHANGES TO THE ORIGINAL APPLICATION.** Any change to the original application must be submitted to ADFA in writing at least thirty (30) days prior to the change becoming effective. All changes must be reviewed and approved by ADFA’s Multi-Family Housing Staff or ADFA’s Board of Directors. Any change to the original application made without approval from ADFA will be null and void.

**J. ISSUANCE OF COMMITMENT BY ADFA.**

All commitments of volume cap made by ADFA will be issued to the developer and will be valid only to provide bond financing for a specific development on a specific site. Any change in the project site, the applicant entity, the ownership entity or the size, nature or other characteristics of the development may, in ADFA’s sole discretion, invalidate the commitment. The applicant is obligated to report any changes to ADFA. Should the highest elected official withdraw the letter of support

for the development at any time prior to the bond closing ADFA will invalidate the commitment for volume cap. Revocation of the letter of support at any time after the bond closing will not affect the commitment for volume cap.

The validity of the commitment will be subject to the applicant's compliance with all terms stated in the Commitment Letter.

**K. TIMETABLE FOR ALLOCATION AND FUNDING CYCLES.**

<b>JANUARY, 2004 FUNDING CYCLE</b>	
November 13, 2003	Notification to bond counsel and underwriters of availability of 2004 Multi-Family Private Activity Volume Cap
January 8, 2004	Application deadline (4:30 pm)
February 5, 2004	Notification of Staff findings to Board Housing Review Committee
February 9, 2004	Notification to applicants regarding presentation to Board Housing Review Committee.
February 19, 2004	Applicant presentation to Joint Housing Review Committees and Board of Directors' approval of applicants
February 23, 2004	Commitment Letters mailed to developers
April 19, 2004	Deadline for bond closing (60 days from reservation date)

Any additional funding cycles shall follow the same time format outlined above.

**X. BONDS ISSUED BY ENTITY OTHER THAN ADFA.**

If bonds are issued by an entity other than ADFA, the developer must submit application to ADFA for the four percent (4%) LIHTC. The Applicant must comply with the Arkansas Development Finance Authority Rules and Regulations Regarding Allocation of the State Volume Cap for Private Activity Bonds. Completion of the 2004 Multi-Family Housing Application is also required. Application threshold requirements and all required attachments must accompany the application. All information submitted to ADFA along with ADFA Staff findings and notes may be shared with the issuing entity to assist the issuing entity with funding decisions. The applicant will be responsible for the following fees when ADFA is NOT the issuer:



A. **APPLICATION FEE.** A Five Hundred Dollar (\$500) non-refundable application fee is payable at the time an application is submitted to ADFA. All applications submitted without the application fee will be considered incomplete.

B. **LIHTC FEES.**

1. **RESERVATION OF CREDIT FEE.** A non-refundable reservation fee of One Hundred Dollars (\$100) per low-income unit will be required at the bond closing.
2. **ALLOCATION OF CREDIT FEE.** An allocation of credit fee of One Hundred Dollars (\$100) per low-income unit will be required at the time the credits are allocated (issuance of IRS Form/s 8609).
3. **COMPLIANCE/MONITORING FEE.** A one-time compliance and monitoring fee of 6% of the yearly allocation of credits (amount of annual credits) is required to be paid at the time the credits are allocated (issuance of IRS Form 8609).

XI. **CERTIFICATION.**

ADFA reserves the right to disapprove any development for an allocation of volume cap, regardless of the evaluation. ADFA reserves the right, in its sole and absolute discretion, to suspend or debar any applicant from the volume cap program which ADFA determines has acted improperly, illegally or inappropriately in the applicant's dealings with the Authority or in any way relative to the program. It is the policy of ADFA to discourage applicants from contacting ADFA staff for information on the status of their applications after the expiration of the deadline for final applications. Violations of this policy will be brought to the attention of the Board Housing Review Committee and could result in disqualification of your application. No contact with ADFA board members is allowed and any such contact will be grounds for immediate rejection of the application.

Adopted by the Board of Directors of the Arkansas Development Finance Authority this 17th day of July 2003.

By: \_\_\_\_\_  
Freddie Mobley, Chair Person

ATTEST:

\_\_\_\_\_  
Mac Dodson, President/Secretary