



Tennessee Housing Development Agency

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MEMORANDUM

TO: Persons interested in the low-income housing tax credit program

FROM: Multifamily Development Division

DATE: February 14, 2006

SUBJECT: Draft amendment to 2006 Low-Income Housing Tax Credit Qualified Allocation Plan

The following document is the initial draft of an amendment to the 2006 Qualified Allocation Plan for Low-Income Housing Tax Credits. 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 an amendment to the 2006 Qualified Allocation Plan.

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Part XVIII: Extraordinary Relief in Response to 2005 Hurricanes

A. Applicability

1. This Part XVIII is intended to apply to developments that received an allocation of Tax Credits through the competitive process under the Low-Income Housing Tax Credit Qualified Allocation Plan for 2004 (the "2004 QAP" and, with respect to the development, the "2004 developments") or under the Low-Income Housing Tax Credit Qualified Allocation Plan for 2005 (the "2005 QAP" and, with respect to the development, the "2005 developments"). The 2004 developments and the 2005 developments are also referred to in this Part XVIII as the "2004 and 2005 developments".
2. 2004 and 2005 developments may seek extraordinary relief under Part XVIII-B or Part XVIII-C, but not under both.
3. Notwithstanding application of this Part XVIII, 2004 developments or 2005 developments that receive an allocation of 2006 Tax Credit ("Extraordinary Relief Tax Credit") hereunder shall not be considered a 2006 development for any purpose. All 2004 developments shall be subject to the 2004 QAP, except as the 2004 QAP is specifically modified or amended in this Part XVIII, and all 2005 developments shall be subject to the 2005 QAP except as the 2005 QAP is specifically modified or amended in this Part XVIII.

B. 2004 and 2005 Developments Not Requesting Extraordinary Relief Tax Credit

1. The 2004 QAP and the 2005 QAP are each hereby amended to incorporate the per unit tax credit limits in Part IV-D-2 and Part IV-D-4 of this QAP to 2004 developments and 2005 developments.
2. The 2004 and 2005 developments may be permitted, in THDA's sole discretion, to alter the number of total units in the development and retain the amount of tax credit reflected in the development's 2004 Carryover Allocation Agreement or 2005 Carryover Allocation Agreement (the "Carryover Allocation Agreement").
3. The 2004 and 2005 developments receiving extraordinary relief pursuant to the provisions of this Part XVIII-B will not be permitted to receive an amount of tax credit above what is reflected in the development's Carryover Allocation Agreement.
4. Modifications made pursuant to this Part XVIII-B are subject to, without limitation, the provisions and requirements of Part XIV and Part XV of this QAP.

C. 2004 and 2005 Developments Requesting Extraordinary Relief Tax Credit

1. The 2004 and 2005 developments not seeking extraordinary relief pursuant to Part XVIII-B of this QAP may, in THDA's sole discretion, receive an allocation of Extraordinary Relief Tax Credit in addition to the amount of 2004 or 2005 Tax Credits reflected in the development's Carryover Allocation Agreement.
2. The 2004 and 2005 developments seeking extraordinary relief pursuant to this Part XVIII-C must submit, no later than 1:00 PM Central Standard Time on March 31, 2006, either:
 - a. A recorded construction loan deed of trust recorded no earlier than August 28, 2005; or

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- b. A sworn and notarized statement that as of March 31, 2006 the construction financing has not closed.

[VERSION OF XVIII-C-3 IF 2006 PER UNIT CAP APPLIES ONLY TO EXTRAORDINARY RELIEF TAX CREDIT]

- 3. 2004 and 2005 developments submitting documentation pursuant to Part VIII-C-2 above which is satisfactory to THDA, in its sole discretion, may receive Extraordinary Relief Tax Credit equal to **the lesser of:**
 - a. A proportional share of an aggregate amount of up to one million five hundred thousand dollars (\$1,500,000) of Tax Credits available for allocation in 2006 pursuant to Part III-A-3 of this QAP; or
 - b. An increase of ten percent (10.0%) based on the amount of Tax Credit reflected in the development's Carryover Allocation Agreement.

[VERSION OF XVIII-C-3 IF 2006 PER UNIT CAP APPLIES TO SUM OF 2004/2005 ALLOCATION AND EXTRAORDINARY RELIEF TAX CREDIT]

- 3. 2004 and 2005 developments submitting documentation pursuant to Part VIII-C-2 above which is satisfactory to THDA, in its sole discretion, may receive Extraordinary Relief Tax Credit equal to **the least of:**
 - a. A proportional share of an aggregate amount of up to one million five hundred thousand dollars (\$1,500,000) of Tax Credits available for allocation in 2006 pursuant to Part III-A-3 of this QAP; or
 - b. An increase of ten percent (10.0%) based on the amount of Tax Credit reflected in the development's Carryover Allocation Agreement; or
 - c. An amount sufficient to increase the aggregate amount of tax credit allocated to the development in 2004 or 2005 and 2006 to the per unit maximum applicable under Part IV-D-2 or IV-D-4 of this QAP.
- 4. A "proportional share" for purposes of Part XVIII-C-3-a above shall be (i) the ratio of an individual 2004 or 2005 development's 2004 or 2005 allocation of Tax Credits (as reflected in the development's Carryover Allocation Agreement) to the aggregate 2004 and 2005 Tax Credits allocated to 2004 and 2005 developments qualifying for extraordinary relief pursuant to Part XVIII-C-2 above multiplied by (ii) the amount of 2006 Tax Credit available for extraordinary relief pursuant to Part XVIII-C-3-a above.

Example: the aggregate 2004 and 2005 Tax Credits allocated to the 2004 and 2005 developments that qualify for extraordinary relief pursuant to Part XVIII-C-2 above is \$1,000,000 and development X received an allocation of Tax Credits equal to \$20,000 of that \$1,000,000 then development X's proportional share would be 20,000/1,000,000 or 2.0% of the amount of credit available for extraordinary relief pursuant to Part XVIII-C-3-a above.

- 5. 2004 and 2005 developments receiving an allocation of Extraordinary Relief Tax Credit will be issued a 2006 Extraordinary Relief Reservation Notice and an Extraordinary Relief Reservation Fee equal to 5.0% of the total annual Extraordinary Relief Tax Credit amount approved by THDA will be due by the date specified in the 2006 Extraordinary Relief Reservation Notice.

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6. Modifications to 2004 and 2005 developments after delivery of a 2006 Extraordinary Relief Reservation Notice are subject to, without limitation, the provisions and requirements of Part XIV and Part XV of this QAP. Notwithstanding the foregoing however, 2004 and 2005 developments will be permitted to reduce the number of units to be constructed only in compliance with Part XVIII-B of this QAP and upon the surrender of the full amount of Extraordinary Relief Tax Credit specified in the Extraordinary Relief Reservation Notice.
7. Extraordinary Relief Tax Credit will count against the per county and per developer or related parties limits specified in Part IV of this QAP.
8. Extraordinary Relief Tax Credit allocated to 2004 and 2005 developments that received an allocation from the Non-Profit Set-Aside under the 2004 QAP or the 2005 QAP will be counted against the 2006 Non-Profit Set-Aside.
9. Extraordinary Relief Tax Credit will not be counted against the per county, per development, or per developer or related parties limits specified in the 2004 QAP or the 2005 QAP.
10. Developer and consultant fees for 2004 and 2005 developments that receive an allocation of Extraordinary Relief Tax Credit shall be limited to the developer and consultant fees reflected in the Carryover Application, as deemed reasonable by THDA, subject to the requirements of the 2004 QAP and the 2005 QAP, respectively.
11. 2004 developments receiving Extraordinary Relief Tax Credit that originally received an allocation of 2004 Tax Credits:
 - a. shall be placed in service no later than December 31, 2006; and
 - b. shall submit a Final Application pursuant to the requirements of, without limitation, Part XI of the 2004 QAP, the 2004 Low-Income Housing Tax Credit Reservation Notice, and the Carryover Allocation Agreement; and
 - c. shall be monitored pursuant to the requirements of the 2004 QAP; and
 - d. shall record Land Use Restrictive Covenants prepared pursuant to the 2004 QAP; and
 - e. shall be subject to all provisions of the 2004 QAP, not otherwise amended or modified by this Part XVIII.
12. 2005 developments receiving Extraordinary Relief Tax Credit that originally received an allocation of 2005 Tax Credits:
 - a. shall be placed in service no later than December 31, 2007; and
 - b. shall submit a Final Application pursuant to the requirements of, without limitation, Part XI of the 2005 QAP, the 2005 Low-Income Housing Tax Credit Reservation Notice, and the Carryover Allocation Agreement; and
 - c. shall be monitored pursuant to the requirements of the 2005 QAP; and
 - d. shall record Land Use Restrictive Covenants prepared pursuant to the 2005 QAP; and

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- e. may receive a 2006 Extraordinary Relief Carryover Allocation Agreement, expiring no later than December 31, 2007, with respect to the Extraordinary Relief Credit if not placed in service by December 31, 2006; and
 - f. shall submit the cost certification for the ten percent (10%) test no later than July 31, 2007, if a 2006 Extraordinary Relief Carryover Allocation Agreement is executed; and
 - g. shall be subject to all provisions of the 2005 QAP, not otherwise amended or modified by this Part XVIII.
13. By executing an Extraordinary Relief Reservation Notice, the owner, developer and all parties associated with the 2004 development or a 2005 development referenced in the Extraordinary Relief Reservation Notice acknowledge and agree that the collective amount of Tax Credits made available to the development may be reduced, in THDA's sole discretion, based on the final application submitted in connection with each development.