Multifamily Housing Revenue Bond Policy

Introduction

Alabama Housing Finance Authority ("AHFA") receives tax exempt bond allocation each year from the State of Alabama. AHFA also administers the State of Alabama's annual allocation of Low Income Housing Tax Credits ("Tax Credits") and of funds made available under the HOME Partnership Investments Program ("HOME Funds").

AHFA dedicates its Tax Credits and HOME Funds to the development of safe, decent and affordable multifamily housing. Because of the availability of these substantial resources for multifamily housing, AHFA's first priority in the use of its tax exempt bond allocation is for single family mortgage programs for persons with low to moderate income. To the extent that AHFA's annual bond allocation exceeds the needs of its single family mortgage program, AHFA's policy is to make the excess bond allocation available for development of safe, decent and affordable multifamily housing.

In addition, in order to enhance the feasibility and stability of multifamily projects constructed through the use of Tax Credits and/or HOME Funds, AHFA's priority in the issuance of multifamily revenue bonds, whether or not they are tax exempt, will be for acquisition and renovation of existing affordable housing or for new construction in cities or counties in which all existing projects funded by AHFA have maintained not less than ninety percent (90%) occupancy for a 90-day period ending not more than 30 days prior to AHFA's receipt of an application, as described more particularly below.

This document sets forth AHFA's policy concerning use of tax exempt bond allocation for the acquisition, renovation and new construction of affordable residential rental housing. This policy also applies to requests for AHFA to serve as a conduit issuer of bonds to be used for multifamily housing developments, whether or not tax exempt bond allocation, Tax Credits or HOME Funds are requested.

Program Overview

AHFA issues multifamily housing revenue bonds for the acquisition, renovation, and new construction of affordable residential rental housing. The development team should have considerable experience in multifamily rental housing designed for use by low-to-moderate-income tenants to assure the successful completion and operation of the development.

Applicants seeking non-competitive Tax Credits must meet the requirements imposed by Section 42 of the Internal Revenue Code of 1986, as amended, and all applicants must meet all of the applicable year's Tax Credit allocation plans required threshold items. Applications induced for tax-exempt bonds are not guaranteed an allocation of Tax Credits from AHFA.

Section 42(h)(4) provides the general rule that a project may qualify for Tax Credits only for that portion of the eligible basis of the project financed with tax-exempt bond proceeds. A special rule, however, in Section 42(h)(4) allows Tax Credits to be obtained for the entire building if 50% or more of the "aggregate basis of the building and the land on which the building is located" is financed by a tax-exempt obligation. Thus, to fully utilize the 4% Tax Credit for tax-exempt bond projects, the developer must ensure that 50% or more of the project's aggregate basis is "financed" by the tax-exempt obligation.

In addition, AHFA may consider issuing tax-exempt bonds to qualified 501(c)(3) organizations for developments that meet the requirements of Section 145 of the Internal Revenue Code.

AHFA reserves the right to modify, suspend or amend the Multifamily Housing Revenue Bond Program at any time, with or without further notice. All costs incurred in the application or development process are the sole responsibility of the applicant. AHFA in its sole discretion may impose additional conditions, restrictions, and requirements.

Bond Allocation

In order to qualify for a tax-exempt bond volume cap allocation, an applicant must (i) demonstrate that the proposed project has been induced by AHFA pursuant to an approved inducement resolution and (ii) present either a signed commitment for credit enhancement meeting the ratings requirement set forth below or a signed commitment by an accredited investor to purchase the bonds. Volume cap allocations will be awarded by AHFA on a first-come first-served basis, determined by time of receipt by AHFA of written confirmation that the conditions in this paragraph have been met. If at the time AHFA receives such confirmation, the available volume cap for such calendar year is less than the amount of volume cap requested, then the request will be denied and the applicant must reapply in the following calendar year. Upon approval by AHFA of a tax-exempt bond volume cap allocation, a commitment fee is due from the applicant in an amount equal to the greater of (a) one percent (1%) of the amount of bond allocation requested, or (b) $75,000. AHFA, owner, lender, and credit provider must then execute a Commitment Agreement. This commits to bond allocation (subject to expiration, as described herein) and permits bond counsel and AHFA's counsel to commence legal work at the applicant's expense, regardless of whether the bonds are ever actually issued.

Developer Cap

No bond allocation shall be issued to any applicant or related entities exceeding $10,000,000.00 in any calendar year. All commitments of bond allocation will be for a specific development or a specific site. Unless bonds are issued, all commitments of bond allocations shall expire on the earlier of December 1 of the year the Commitment Agreement is signed or the termination date set forth in the Commitment Agreement.

Application Process

An application for issuance of multifamily housing revenue bonds must be submitted to AHFA to be considered for an inducement resolution. Upon request, AHFA will provide an application with instructions.

Location and Types of Projects

AHFA will accept applications for acquisition/rehabilitation projects throughout the State of Alabama.

AHFA will accept applications for new construction projects in a city or county in which AHFA has previously funded a multifamily bond, Tax Credit, HOME, or Tax Credit/HOME new construction project only when the project funded previously has been placed in service and has maintained not less than ninety percent (90%) occupancy for a ninety (90) day period ending not more than 30 days prior to the date of application; provided, however, that AHFA may consider an exception to this limitation for proposed new construction that (a) is located within Baldwin, Jefferson, Madison, Mobile, Montgomery, Shelby, St. Clair or Tuscaloosa Counties, (b) is not within a 3-mile radius of any project funded previously by AHFA that has not maintained at least ninety percent (90%) occupancy for a ninety (90) day period ending not more than thirty (30) days prior to the date of the application, and (c) does not adversely impact, or add to a concentration of, existing multifamily housing or previously funded projects in the proposed development locale. The applicant must provide a market study, in form acceptable to AHFA, demonstrating an adequate market for the proposed units. If AHFA does not agree with applicant's market study or feels that the proposed project would adversely impact existing projects or create excessive concentration, AHFA reserves the right to obtain, at the applicant's expense after prior notice, a market study or other information from an independent consultant for AHFA's consideration in resolving the matter.

Inducement Resolution

AHFA will accept applications for an inducement resolution on or before February 1, May 1, August 1 and November 1 of each year. A complete application must be submitted to be considered for inducement at AHFA's next scheduled Board meeting. A non-refundable application fee of $2,000.00 in the form of a cashier's check or money order made payable to AHFA must be submitted with the completed application.

If AHFA determines that the application is complete and satisfactorily meets the requirements to issue bonds, the request may be submitted to the Board of Directors of AHFA for consideration of an inducement resolution.

Approval of the inducement resolution offers no assurance that tax-exempt bond volume cap allocation is or will be available to enable AHFA to issue bonds that are tax exempt to finance the project. Should it be determined that bonds can be issued (subject to final consideration by AHFA's Board of Directors) expenses the applicant incurs in connection with the issue(s) may qualify as eligible bond costs, subject to applicable federal law.

The inducement resolution will expire on the earlier of twelve months from its date of approval or expiration of applicable bond allocation. Prior to the expiration of an inducement resolution and upon payment to AHFA of a $500.00 renewal fee, an extension may be requested. AHFA's policy is to permit one extension for good cause for a period of up to seven months.

Bond Resolution

Not less than thirty (30) days prior to the date of the AHFA board meeting at which a bond resolution is proposed to be considered, AHFA must have received (1) evidence that the proposed project has been induced by AHFA pursuant to an approved inducement resolution, (2) a fully executed Commitment Agreement in a form satisfactory to AHFA, and (3) payment of the commitment fee described above. In addition, AHFA's final consideration of a bond resolution to issue bonds is subject to (1) determination by the AHFA regarding the eligibility of the project for Tax Credits (if applicable), (2) the form and source of credit enhancement relative to the bonds, (3) payment of all applicable fees, and (4) financing documents to be approved in bond resolution in substantially final form satisfactory to AHFA.

In addition to other requirements, AHFA reserves the right to approve in its sole discretion any proposed transaction structure for the issuance of multifamily housing revenue bonds and the forms of all financing documents.

Administrative Fee

AHFA's agreement to issue bonds for any project is contingent upon the owner's payment of an administration fee equal to one eighth of one percent (0.125%) of the outstanding balance of the Bonds, due and payable in advance on the closing date and the first day of each October. Satisfactory arrangements for payment of the Administration Fee is a condition of the AHFA's financing.

Special Requirements for Tax Credits

For projects receiving Tax Credits, within 10 days of the issuance of the Tax Credit reservation, the applicant must remit a cashier's check or certified funds in an amount equal to ten percent (10%) of the first year Tax Credit allocation.

Credit Enhancement

The credit enhancement must be sufficient to enable the bonds to obtain a rating of A or higher from Moody's, S&P or Fitch. If the bonds do not receive a rating of A or higher, the bonds may only be sold to a single "accredited investor" (as such term is defined in Reg. D of the SEC) which signs an investment letter that is acceptable to the AHFA in its sole discretion, and the bonds shall provide that such bonds shall only be transferred in accordance with the investment letter.

Project Requirements

Occupancy Requirements for All Projects

A "qualified residential rental project" as defined by Section 142 of the Internal Revenue Code must remain in compliance with the applicable set aside test throughout the "qualified project period" as defined by Section 142 of the Internal Revenue Code. A failure to do so can result in the retroactive taxability of the project bonds back to their issue date, as well as recapture of any four percent (4%) Tax Credits.

At all times during the qualified project period, the project must meet one of the following set-aside tests:

(a) 20/50 percent test – Twenty (20) percent or more of the residential units in the project must be occupied by and rent restricted to individuals whose income is 50 percent or less of the area median income adjusted for household size; or

(b) 40/60 percent test – Forty (40) percent or more of the residential units in the project must be occupied by and rent restricted to individuals whose income is 60 percent or less of the area median gross income, adjusted for households size.

Physical Requirements for All Projects

A residential rental project must consist of units containing complete living facilities and which are available to the general public. Complete facilities provide separate space for living, sleeping, eating, cooking, and sanitation.

Residential rental projects must be on a single site or contiguous sites. Sites may be considered contiguous if separated only by one neighborhood street. Intermediate care facilities, group homes, and congregate care facilities are not allowed.

Special Minimum Requirements for Rehabilitation Projects

AHFA requires a minimum rehabilitation expenditure of **$6,000.00** in hard construction costs per unit for an acquisition and/or rehabilitation development.

All rehabilitation must meet existing Building Code requirements. Capital needs assessment must be conducted by an independent third party to justify the work to be performed. The following parameters must be met:

(a) rehabilitation expenditures must be the greater of $6,000.00 per unit or fifteen percent (15%) of the amount of the Bond issue;

(b) AHFA reserves the right to inspect the development periodically to verify the rehabilitation is as proposed and is proceeding in a timely manner

Feasibility and Cost Requirements

AHFA reserves the right to review and approve in its discretion the economic feasibility, market feasibility and costs for each project. AHFA may review this information, including any changes thereto, at any time from receipt of initial application through issuance of bonds.

Financial and Market Requirements

All developments will be subject to an underwriting review for financial and market feasibility by AHFA.

Development Cost Review

Each development will be evaluated for comparability and reasonableness of development costs. Costs will be reviewed as to their validity and necessity against previous years' developments, regional data, third party documentation, and other factors and data.

The applicant must be as accurate as possible in providing development cost information. Underestimating could result in insufficient funds being available to successfully complete the development. Overestimating could result in a development being considered not feasible based on the debt level needed to complete the development. Additional documentation from the development's developer may be requested.

The code limits the amount of bond issuance cost that may be financed with tax-exempt bond proceeds to 2% of the principal amount of the tax-exempt issue.