Low Income Housing Tax Credits

Planning and Housing Development Division

(12/18)

Purpose

A federal program, administered by the states, designed to encourage private investment in the development and preservation of multifamily housing for low-income households.

Authorization

Section 42 of the Internal Revenue Code

Eligible Applicant

Units of local, state or tribal government; local or tribal housing authorities; community action agencies; regional planning councils; non-profit or for-profit developers. Applicants without prior LIHTC experience must partner with an experienced entity.

At least 10% of each state's LIHTC allocation must be set aside for projects owned by qualified tax-exempt non-profit organizations. Projects located within a North Dakota Indian Reservation or on tribal land also benefit from a 10% set-aside of the state's housing credit allocation.

Eligible Projects

New construction of multi-family housing; **Acquisition with substantial rehabilitation** of existing multi-family housing; **Adaptive reuse** of existing non-residential buildings that create additional affordable housing units.

Maximum Allocation

A project may receive tax credits of 9% of the project's qualified basis, defined generally as the project's depreciable cost times the percentage of the project that is restricted for low-income households, those at 60% or less of area median income. Qualified basis may be increased by up to 30% in certain qualified census tracts, difficult development areas, and other high-cost areas.

Projects financed with tax-exempt bonds are only eligible to receive an approximate 4% tax credit. These may be applied for at any time.

Use of LIHTCs

LIHTC projects are owned by a limited partnership or an LLC, with tax credit benefits flowing to the entity's partners or members. The investor member or limited partner typically owns 99.99%, and receives 99.99% of the tax credit benefits, thereby creating opportunity for equity investment into the project. The tax credits are taken each year for 10 years.

Available Funds

North Dakota receives the small-state minimum allocation each year. In 2019, the small-state minimum allocation is $3,166,875.

Recapture

LIHTC projects are bound by 30-year regulatory agreements. Noncompliance results in loss and repayment of tax credits by the investor limited partner.

Fees

$500 nonrefundable application fee. Successful applicants will be charged a tax credit allocation fee of 10%, payable in installments at the time of reservation, carryover, and final allocation. Annual compliance monitoring fees are currently $50 per development plus $35 per restricted unit.

Deadlines

The annual application deadline is the last business day in September. Projects receiving conditional commitments submit formal reservation applications by the following January 31. Projects must be placed-in-service by December 31st of the year which is two-years after the tax credit allocation.

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