Housing Tax Credit Procedures for Projects Financed with Tax-Exempt Volume Limited Bonds

These procedures are for developers of projects expected to be financed with tax-exempt volume limited bonds seeking the 4% Housing Tax Credit (HTC) Program.

In Minnesota, Minnesota Management and Budget (MMB) is the primary apportionment agency for allocation of the authority to issue, pursuant to federal tax law, tax-exempt volume limited bonds. Minnesota Housing and some local units of government receive a set-aside of the authority to allocate tax-exempt volume limited bonding authority to finance qualified developments. For information on application dates and procedures for tax-exempt volume limited bonding authority from MMB, contact MMB directly.

Section 42 of the Internal Revenue Code (IRC) establishes that, under certain circumstances, low-income housing tax credits not from the state annual credit ceiling may be available for projects that are financed with tax-exempt volume limited bonds. Minnesota Management and Budget (MMB) administers the state's tax-exempt volume limited bonding authority for all issuers in the state, including Minnesota Housing. Projects that receive an allocation of bonding authority must separately request an award of 4% HTCs from Minnesota Housing or the applicable suballocator, depending on the issuer and location of the project.

Developers proposing projects within Minnesota Housing's jurisdiction should be aware of the information contained in Chapter 7 of the state of Minnesota HTC Qualified Allocation Plan (QAP). An explanation of the award process for 4% HTCs associated with projects financed with tax-exempt volume limited bonds can be found in the QAP. Developers of projects outside of Minnesota Housing's jurisdiction should be aware of the information published in the applicable suballocator's QAP.

When Minnesota Housing is the HTC agency, Minnesota Housing will evaluate whether the development complies with the applicable year's QAP, including whether the development is financially feasible as required by Section 42 of the IRC. If Minnesota Housing is not the issuer of the tax-exempt volume limited bonds, the issuer must provide a letter to Minnesota Housing under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination. This letter is required at application and an updated letter will be required when the developer submits the IRS 8609 checklist.

The following is a summary of the HTC review requirements:

- **If tax-exempt volume limited bonds are issued by Minnesota Housing**

  Minnesota Housing will be the HTC agency and will evaluate whether the development complies with Minnesota Housing's QAP, including whether the development is financially feasible as required by Section 42 of the IRC, regardless of where the project is located, including projects located in the jurisdiction of a suballocator.

- **If tax-exempt volume limited bonds are issued by a suballocator**

  The suballocator will be the HTC agency and will perform the HTC review pursuant to the suballocator's QAP if the project is in their jurisdiction.

- **If tax-exempt volume limited bonds are issued by a county for a project located within the jurisdiction of a suballocator**

  The suballocator will be the HTC agency and will perform the HTC review pursuant to the suballocator's QAP. For tax-exempt bonds issued by Hennepin County for projects in Minneapolis or for tax-exempt bonds issued by Ramsey County for projects in Saint Paul, the Minneapolis/Saint Paul Housing Finance Board must provide a letter under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination.

- **If tax-exempt volume limited bonds are issued by a city or county and the project is located outside of the jurisdiction of a suballocator**

  Minnesota Housing will be the HTC agency and will evaluate whether the development complies with the applicable year's QAP, including whether the development is financially feasible as required by Section 42 of the IRC. The issuer must provide a letter under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination.

- **If tax-exempt volume limited bonds are issued in a jurisdiction of a suballocator that has a Joint Powers Agreement with Minnesota Housing**

  To the extent provided for in the Joint Powers Suballocator Agreement, Minnesota Housing will be the HTC agency and will evaluate whether the development complies with the applicable year's QAP, including whether the development is financially feasible as required by Section 42 of the IRC. The issuer must provide a letter under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination.

When Minnesota Housing is the HTC agency, the development must comply with Minnesota Housing's QAP that is in effect for the calendar year in which the tax-exempt volume limited bonds, in an amount sufficient to qualify the development for tax credits, were first issued.

IRC Section 42(b)(1) and Treasury Regulations Section 1.42-8(b) address the applicable percentage and how the appropriate percentage month is established. It is very important to elect the appropriate percentage month and the related applicable percentage, and then properly report and document these actions to the appropriate HTC agency. It is the taxpayer's responsibility to be aware of the related IRC and Treasury regulation requirements and to make the elections and reporting in the time and manner prescribed.

For 4% HTC related questions, visit the 4% HTC webpage or email htc.mhfa@state.mn.us.