

Ralph M. Perrey, Executive Director



MEMORANDUM

TO: Persons Interested in the Multifamily Tax-Exempt Bond Authority Program

FROM: Multifamily Programs Division

DATE: October 23, 2020

SUBJECT: Multifamily Tax-Exempt Bond Authority **Draft** Program Description for 2021

The following document is the Multifamily Tax-Exempt Bond Authority **Draft** Program Description for 2021 (the "Draft 2021 PD"). The Draft 2021 PD includes language regarding changes proposed by members of THDA's Board of Directors, changes proposed by the public, and changes proposed by THDA staff.

Written comments may be submitted by email to TNAallocation@thda.org. **The deadline for submission of comments is 12:00 PM Central Time on Friday, October 30, 2020.**

Changes proposed in this Draft 2021 PD may be accepted, rejected, or modified in any respect. Changes or modifications not currently reflected in this Draft 2021 PD may also be made. By posting this Draft 2021 PD, no representations are being made about any item that may be included, excluded, or modified in the preparation and approval of the final Multifamily Tax-Exempt Bond Authority Program Description for 2021.



MULTIFAMILY TAX-EXEMPT BOND AUTHORITY
DRAFT PROGRAM DESCRIPTION FOR ~~2020~~2021

Administered by

The Multifamily Programs Division of
Tennessee Housing Development Agency

Ralph M. Perrey, Executive Director

Approved ~~November 19, 2019~~[DATE]

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Section 1: ~~2020-2021~~ Multifamily Tax-Exempt Bond Authority Overview

Tennessee Housing Development Agency (THDA) is making private activity bond authority available to local issuers to finance multifamily housing units in Tennessee under Section 142(d) of the Code. The private activity bond authority can be used only for tax-exempt Private Activity Bonds issued to finance qualified residential rental projects through new construction of multifamily rental units, conversion of existing properties to multifamily rental units through Adaptive Reuse/Conversion, or acquisition and rehabilitation of Existing Multifamily Housing.

Upon receipt of ~~2020-2021~~ private activity bond authority, THDA will make 50.0% of the initial amount allocated to THDA available as Multifamily Tax-Exempt Bond Authority (“MTBA”) that will be administered in accordance with this Multifamily Tax-Exempt Bond Authority Program Description for ~~2020-2021~~ (“MTBA Program Description”).

The application submission period for ~~2020-2021~~ MTBA will begin after THDA receives private activity bond authority from the State of Tennessee. The submission period for ~~2020-2021~~ MTBA will end when all MTBA is fully committed or by December 21, ~~2020-2021~~, whichever date is earlier. THDA will notify program participants by email and information posted to THDA’s website. No applications submitted under this MTBA Program Description will have priority or be considered under any future MTBA Program Description.

Whenever a local jurisdiction takes action that THDA determines to be for the primary purpose of preventing proposed MTBA developments from satisfying applicable program requirements, THDA may lower the amount of MTBA available to that jurisdiction in future MTBA Program Descriptions. Examples include, without limitation, “downzoning”, action restricting utilities or utility connections, action regarding required public roads, or action to preventing issuance of Certificates of Occupancy.

Applicants applying for MTBA in THOMAS are deemed to be simultaneously applying for Noncompetitive Housing Credits in THOMAS and must meet the requirements found in the THOMAS User Manual and use the documents found on the THOMAS Documents Page. All MTBA Program Description requirements, application requirements, and Code requirements must be met. If there is any inconsistency or conflict among the requirements, the most stringent of the requirements will apply, as determined by THDA.



Section 2: Definitions

20/50 Test - The 20/50 test is a minimum set-aside that may be elected by an applicant for MTBA and Noncompetitive Housing Credits that requires at least 20% of the units in a Housing Credit development to be both rent restricted and occupied by households whose income is less than or equal to 50% of area median gross income. This is an irrevocable election made in an Initial Application.

40/60 Test - The 40/60 test is a minimum set-aside that may be elected by an applicant for MTBA and Noncompetitive Housing Credits that requires at least 40% of the units in a Housing Credit development to be both rent restricted and occupied by households whose income is less than or equal to 60% of area median gross income. This is an irrevocable election made in an Initial Application.

Average Income Test - The average income test is a minimum set-aside that may be elected by an applicant for Noncompetitive Housing Credits. Under this election, at least 40% of the units in a Housing Credit development are required to be both rent restricted and occupied by individuals whose incomes do not exceed the imputed income limitation designated by the applicant. This is an irrevocable election made at Initial Application. The average of the imputed income limitation designated cannot exceed 60% of AMI. The designated imputed income limitations must be in 10% increments as follows: 20%, 30%, 40%, 50%, 60%, 70%, and 80%.

42(m) Letter - A letter issued by THDA to successful applicants for ~~4percent~~ Noncompetitive ~~Low~~ Housing Credits.

Acquisition - Acquiring the control of real property and assets.

Adaptive Reuse/Conversion - The renovation and reuse of a pre-existing building that has not been used for residential purposes and creates additional affordable housing units. Pre-existing buildings used as hotels or motels are eligible as Adaptive Reuse/Conversion. Adaptive Reuse/Conversion will be evaluated and reviewed as New Construction.

AMI - Area Median Income as determined by HUD.

Appraisal - An opinion of value for land and building cost.

Basis Boost - An increase of up to 30% in eligible basis for a building in order to improve the financial feasibility of the building in a Difficult Development Area. In this MTBA Program Description, only areas defined by HUD as Difficult Development Areas are eligible for the Basis Boost.

Bond - A financial instrument issued on behalf of a local or state government for the purpose of providing special financing benefits for qualified projects.

Bond Counsel - Counsel representing the bond issuer and bondholders.

Bond Issuer - A municipality, board, or housing authority with the authority to issue bonds using MTBA for a jurisdiction.

Bond Opinion Letter - A document provided by Bond Counsel representing the issuer that opines that the bonds have been validly issued and, if tax exemption is intended, that the bonds are tax-exempt bonds.



Bond Purchase Agreement Summary Letter - The THDA Template that ~~defines~~describes the terms of a bond purchase agreement.

Capital Needs Assessment - See Physical Needs Assessment

Carryover Allocation Application – The application and all related documentation required when a development with a Reservation Notice will not be placed in service in the same year as the Reservation Notice.

~~Carryover Allocation Agreement – The application cycle for submission of development with a Reservation Notice of Housing Credits that will not be placed in service the same year.~~

Certificate of Occupancy - A document issued by a local government agency or building department certifying a building's compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupancy.

Certified Public Accountant - A state licensed accounting professional who provides accounting services and opinions and is committed to protecting the public interest.

Code – Internal Revenue Code of 1986, as amended, and together with “Section 42”, shall include all subsequent tax legislation duly enacted by the Congress of the United States and shall be deemed to include the United States Treasury Regulations in effect with respect thereto (including regulations first promulgated under previous versions of the Code) and shall also include revenue procedures, revenue rulings, or other published determinations of the Treasury Department or the Internal Revenue Service of the United States.

Compliance Period - The compliance period is the 15 year period over which a development must continue to satisfy Housing Credit requirements in order to avoid recapture of the Housing Credits. The compliance period begins with the first taxable year of the Credit Period.

Commitment Fee - A fee charged for a firm commitment of MTBA.

Commitment for Permanent Financing - The commitment for long term permanent financing describing all terms and conditions of such financing. ~~This may be a long term mortgage loan or bond issue.~~

Competitive Housing Credits - Housing Credits that are available for construction or rehabilitation housing activities as allocated through the competitive process described in the QAP.

Concerted Community Revitalization Plan (CRP) - A document that assesses the health and potential prosperity of an area through public interaction and assessment of the physical, social and economic health of the citizenry, businesses, infrastructure and built environment in the area. A CRP must contain all of the following:

1. A target area with clearly defined geographic boundaries.
2. A defined role for the lead and/or convening organization that will coordinate all other partners' efforts and monitor plan progress.
3. A steering committee or coalition that is representative of the community and is charged with guiding the process.
4. A survey of current conditions, a needs assessment and/or an asset map that defines community assets upfront and clearly identifies challenges to be addressed. The data should include demographics, economic vitality, and public investment.



5. Public meetings and surveys to identify the citizen and business' vision for the neighborhood/target area.
6. Minimum elements the plan should address include Housing, Education, Infrastructure and Economic Development.
7. Defined outcomes and objectives based both on data and community outreach. Outcomes should be realistic and responsive to the interests of the community.
8. A set of strategies to achieve the outcomes.
9. A proposed timeline for implementation of strategies.
10. Proposed funding for implementation.
11. Continued evaluation of progress, allowing periodic assessment of what is working, what is not and where adjustments are needed.
12. Approval of the plan from the appropriate local entity

Conversion of Existing Property - See Adaptive Reuse/Conversion

Conditional 42(m) Letter - A letter issued by THDA to applicants seeking Noncompetitive Housing Credits in conjunction with non-committed MTBA.

Cost Certification - The certification of actual total development costs for a development and the amount of Housing Credit eligible basis in the development at the completion of construction for a development.

Cost of Issuance - Costs associated with the issuance of Private Activity Bonds, capped at 2% in accordance with Code requirements. These costs include costs permitted under the Code and the MTBA Commitment Fee.

Credit Period – ~~The 10-year period over which Housing Credit may be claimed. The Credit Period begins on the first day of the taxable year in which any building that is part of a Housing Credit development is placed in service or, if deferred by election of the owner of the Housing Credit development, the first day of the next calendar year, but only if the building is a qualified low-income building as of the close of the first year of such period.~~
Credit Period – The 10-year period over which Housing Credit may be claimed. The Credit Period generally begins on the date a development is placed in service, but the owner of a Housing Credit development may elect to start the Credit Period as of the beginning of the year following the year the Housing Credit development is placed in service.

Development Team - Includes any individual or member of the development team including Governors/Directors, Members and Managers/Officers of the Ownership Entity; Officers, Directors, and Stockholders of the Development Entity and Officers, Directors, and Stockholders of the Property Management Company.

~~Difficult Development Area (DDA)~~Difficult Development Area (DDA) - Any area designated by the Secretary of Housing and Urban Development as an area that has high construction, land and utility costs relative to area median gross income.

Downzoning - An effort to change zoning to reduce permitted density of housing and development.

~~ENERGY STAR~~ENERGY STAR - Energy efficient designation that must be obtained in order to utilize the Energy Star Utility Allowances published on the THDA website.

Evaluation Notice – A notice provided by THDA to request clarification or additional information related to a requested status report on the development, Final Application, quarterly construction report, or certified



property management application; during an on-site inspection of the property during construction, after the buildings are placed in service or during the term of the Extended Use Agreement; or other compliance concern identified by THDA in its sole discretion. Failure to respond to successive Evaluation Notices by the Final deadline allows THDA, in its sole discretion, to return or reject the application, recapture the allocation, or issue an event of noncompliance under the terms of the Extended Use Agreement. ~~Evaluation Notice—The notice sent to an initial applicant, after THDA has reviewed documentation and requires additional clarification or corrective action.~~

Extended Use Agreement – Also known as the Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (“LURC”). The LURC evidences choices made by an applicant for points and:

1. Requires that the applicable fraction for each building for each taxable year during the term of the LURC will not be less than the applicable fraction specified in such agreement;
2. Prohibits the eviction or termination of the tenancy (except for good cause) of an existing low-income resident or any increase in the gross rent with respect to a low-income unit that is not otherwise permitted;
3. Allows individuals who meet the income limitation applicable to the building (whether prospective, present, or former occupants of the building) the right to enforce in any State court the rights under (1) and (2) above;
4. Prohibits the disposition to any person of any portion of the building to which the LURC applies, unless all of the building to which the LURC applies is disposed of to such person;
5. Prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 because of the status of the prospective resident as such a holder;
6. Is binding on all successors of the owner of a Housing Credit development;
7. Is recorded in the real property records of the county in which the Housing Credit development is located as a restrictive covenant running with the land; and
8. Commences on the first day of the Compliance Period for a term of at least thirty (30) years.

~~Extended Use Agreement— Also known as the Land Use Restrictive Agreement (LURA) that is an agreement between THDA and the property owner that:~~

- ~~1. Requires that the low income occupancy use percentage for the building for each taxable year in the extended use period will not be less than the low income use percentage in the agreement, and that prohibits the eviction or termination of the tenancy (except for good cause) of an existing low-income resident or any increase in the gross rent with respect to a low-income unit that is not otherwise permitted;~~
- ~~1. Allows individuals who meet the income limitation applicable to the building the right to enforce in any state court the rights under (1) above;~~
- ~~2. Prohibits the disposition to any person of any portion of the building to which the agreement applies is disposed of such person;~~
- ~~3. Prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under the Housing Act of 1937 because of the status of the prospective resident as such a holder;~~
- ~~4. Is binding on all successors of the taxpayer; and~~
- ~~5.1. Is recorded pursuant to local law as a restrictive covenant for such property~~

The Extended Use Agreement begins on the first day of the Compliance Period and ends the later or:

1. The date specified by THDA in the agreement; and
2. The date 15 years after  of the Compliance Period

Existing Multifamily Housing - A multifamily development that will preserve affordable housing units that are rent and income restricted or, through rehabilitation of units that were not previously affordable, create

affordable housing units. Initial Applications proposing developments that combine Existing Multifamily Housing and new construction will be evaluated and reviewed as Existing Multifamily Housing.

Federal Election - For purposes of MTBA; the federal election is the minimum set-aside requirement found under Section 142(d) of the Code; where a certain percentage of the units are designed low income and must be qualified by households earning no more than the associated income limit. For purposes of Noncompetitive Housing Credits; the federal election or test is the minimum set-aside requirement found under Section 42(g)(1) of the Code; where a certain percentage of the units are designed low income and must be qualified by households earning no more than the associated income limit. In the MTBA Program Description; applicants will be held to the federal election required for Noncompetitive Housing Credits.

Final Application – The application and all related documentation required when a Housing Credit development is to be placed in service and for which IRS Forms 8609 are sought.~~Final Application – The application cycle for submission of developments that are placed in service and seeking the IRS Form 8609.~~

Firm 42(m) Letter - A letter issued by THDA to applicants seeking Noncompetitive Housing Credits in conjunction with a commitment of Multifamily Tax-Exempt Bond Authority.

Hard Cost - Costs that include expenses directly related to the physical construction of a building such as construction materials and construction labor.

Housing Credit - Competitive Housing Credits and Noncompetitive Housing Credits

HUD - The United States Department of Housing and Urban Development.

Incentive Fee - A fee charged to improve the performance of issuing and closing MTBA.

Inducement Resolution – A resolution of the local issuing entity authorizing issuance of tax-exempt bonds by the local issuing entity to finance the proposed development.

Initial Application - The application submitted in THOMAS for a commitment of MTBA and an allocation of Noncompetitive Housing Credits for a qualified development.

Issuer Certification – A certificate provided by a local issuer certifying willingness to issue tax-exempt bonds to finance a proposed development in a form and with substance as shown on the THOMAS Documents Page.

Local Government Notification - Following receipt of Initial Applications, THDA will notify the chief executive officer (or the equivalent) of the local government in whose jurisdiction a development proposed in an Initial Application is to be located. Such individual will have an opportunity to comment on the development proposed in the Initial Application to be located in the jurisdiction, as required by Section 42(m)(1)(A)(ii).

Market Study - An analysis of the market conditions of supply, demand and pricing for a specific property type in specific areas.

Modifications - Changes to location buildings, units, square footage, scoring items, etc. that determine eligibility for a commitment of MTBA and an allocation of Noncompetitive Housing Credits.



Noncompetitive Housing Credits – 4% Housing Credits made available to qualified developments, subject to the requirements of this MTBA Program Description, when 50% or more of the aggregate basis of the building and the land on which the building is located is financed with tax-exempt bonds using MTBA.

~~Person with Disabilities – A person, who has a physical, mental or emotional impairment that is expected to be of long continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that such disability could be improved by more suitable housing. A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the person attains age 22; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following areas of major life activity: self care, receptive and expressive language, learning, mobility, self direction, capacity for independent living, and economic self sufficiency; and reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.~~

~~PHA – A Public Housing Authority created under the Housing Authorities Law, Tennessee Code Annotated Section 13-20-101, et seq.~~

~~Placed in Service Application – See Final Application.~~

Physical Needs Assessment - A detailed work plan showing all necessary and contemplated improvements and the projected costs associated with rehabilitation Existing Multifamily Housing.

Private Activity Bond - Tax-exempt bonds issued by or on behalf of local or state government for the purpose of providing financing for qualified projects.

Property Control - Documentation submitted in conjunction with the Initial Application that demonstrates control of the property on which the development proposed in the Initial Application is to be located.

Qualified Allocation Plan (QAP) - The ~~2019–2020 Low~~ Low-Income Housing ~~Tax~~ Credit 2021 Qualified Allocation Plan approved by the THDA Board of Directors on ~~September 25~~ July 28, 20182020, as amended.

~~Qualified Census Tract (QCT)~~Qualified Census Tract (QCT) - Any census tract identified by the Secretary of Housing and Urban Development for the most recent year for which census data are available on household income in such tract. The list is available here: <https://www.huduser.gov/portal/datasets/qct.html>.

Qualified Low Income Buildings - Any building that is part of a Qualified Residential Rental Project at all times during the period which runs from the first day of the Compliance Period and ends on the last day of the Compliance Period.

Qualified Low Income Development - See Qualified Low Income Project

Qualified Low Income Project - Any residential rental property if the project meets the requirements of Section 42 of the Code.



Qualified Low Income Units - Any unit that is occupied by a qualified low income household and is part of a low income housing project at all times during the period that runs from the first day of the Compliance Period and ends on the last day of the Compliance Period.

Qualified Nonprofit Organization - An organization that is described in Section 501(c)(3) or (4) of the Code that is exempt from tax under Section 501(a) of the Code, and that meets the requirements contained in Section 10 of the QAP.

Qualified Residential Rental Projects - As required by Section 142, any residential rental property that meets the Federal Election Test at all times during the Qualified Project Period.

Qualified Project Period - As required by Section 142, the period beginning on the first day on which 10% of the residential units in the project are occupied and ending on the latest of;

1. The date that is 15 years after the date on which 50% of the residential units in the project are occupied,
2. The first day on which no tax exempt private activity bond issued with respect to the project is outstanding, or
3. The date on which any assistance provided with respect to the project under Section 8 of the United States Housing Act of 1937 terminates.

Related Parties - In relation to the Initial Application, any subsequent application or any request for a Modification, related parties include, the applicant, developer, owner, entities with commonality of one or more persons with those listed in the Ownership Entity Breakdown, entities with commonality of one or more persons with those listed in the Developer Entity Breakdown, and any of the following:

1. Any person or entity who has a right to (i) replace the developer, (ii) act as co-developer, (iii) replace any individuals or entities who comprise a developer or co-developer, or (iv) otherwise direct the activities of the developer will be considered a developer for purposes of applying this limit.
2. Any person or entity who has a right to (i) replace the general partner of the owner or applicant, (ii) act as co-general partner of the owner or applicant, (iii) replace any individuals or entities who comprise a general partner or co-general partner of the owner or applicant, or (iv) otherwise direct the activities of the general partner of the owner or applicant will be considered an owner or applicant, as the case may be, for purposes of applying this limit.
3. Any person or entity who has a right to (i) replace the controlling stockholder of the owner or applicant, (ii) act as controlling stockholder of owner or applicant, (iii) replace any individuals or entities who comprise a controlling stockholder of the owner or applicant, or (iv) otherwise direct the activities of the controlling stockholder of the owner or applicant will be considered an owner or applicant, as the case may be, for purposes of applying this limit.
4. Any person or entity who has a right to (i) replace the managing member of the owner or applicant, (ii) act as co-managing member of the owner or applicant, (iii) replace any individuals or entities who comprise a managing member or co-managing member of the owner or applicant, or (iv) otherwise direct the activities of the managing member of the owner or applicant will be considered an owner or applicant, as the case may be, for purposes of applying this limit.
5. Any person who is a signatory or guarantor of construction financing documents, permanent financing documents, and/or equity syndication documents.
6. This limit will also apply to any person or entity that is related to any person or entity specified above.

Rural - Counties identified as rural ~~in the New Construction County Needs Scores;~~ on the ~~THOMAS Documents Page~~ THOMAS Documents Page



Section 42 – Section 42 of the Code, as amended, together with all subsequent legislation duly enacted by the Congress of the United States affecting Section 42, all United States Treasury Regulations in effect with respect thereto (including regulations first promulgated under previous versions of the Code) and all revenue procedures, revenue rulings, or other published determinations of the Treasury Department or the Internal Revenue Service of the United States applicable to Section 42.~~Section 42~~

Significant Adverse Event (SAE) – An occurrence of noncompliance (curable or incurable), program fraud or misrepresentation, or an act that adversely conflicts with THDA’s mission as described in Section 6 of the QAP.~~Significant Adverse Event (“SAE”) – An occurrence of an adverse event as described in Section 3 of this MTBA Program Description.~~

Special Housing Needs – Housing for a Person with Disabilities that has been constructed or rehabilitated with special features (e.g. location, design, layout, or on-site services) to help a Person with Disabilities live at the highest level of independence in the community. For example, the unit may be adapted to accommodate special physical or medical needs; or provide on-site services such as staff support for the elderly, individuals with mental health issues, developmental, or other social needs.

Supportive Service - Any service provided under a planned program of services designed to enable residents of Housing Credit developments to remain independent and avoid placement in a hospital, nursing home or intermediate care facility.

Suburban - Counties identified as suburban ~~in on the New Construction County Needs Scores; on the County needs table and the THOMAS Documents Page.~~THOMAS Documents Page.

Tennessee Growth Policy Act – Tennessee Code Annotated Section 6-68-101 et seq. that requires growth plans approved by the Tennessee Advisory Commission on Intergovernmental Relations. Information available here: <https://www.tn.gov/tacir/tennessee-county-growth-plans.html>.~~Tennessee Growth Policy Act – Growth plans as determined by the Tennessee Advisory Commission on Intergovernmental Relations~~

TEFRA Hearing - The public hearing required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

THOMAS Documents Page - A webpage with necessary forms, templates, guidance, calendar, and links that are utilized through all application submission cycles. The THOMAS Documents Page is incorporated into this MTBA Program Description by this reference as if set forth in this MTBA Program Description verbatim.

THOMAS - The Tennessee Housing Online Management and Application System for all applications involving Housing Credits.

THOMAS User Manual - THDA provided document that gives guidance on the registration and application submission cycles in the THOMAS System. The THOMAS User Manual is incorporated into this QAP by this reference as if set forth in this QAP verbatim.

Total Development Cost - The total of actual costs associated with new construction or rehabilitation development activities, as determined to be reasonable by THDA, in its sole discretion.



Visitability - Design requirements implementing features that make a home accessible, visitable and convenient for everyone. MTBA developments are required to meet Visitability design requirements when the proposed development includes single family units, duplexes, triplexes and townhomes. To meet Visitability design requirements the proposed development must include:

1. Easy Access with a step free entrance of not more than ½ inch from a driveway, sidewalk or other firm surface into the main floor of the home, and;
2. Easy Passage throughout the home with an exterior door that provides a minimum of 32 inches of clear passage (36 inches is preferable) from the step free entrance. All interior passage doorways on the main floor also provide a minimum of 32 inches of clear passage, and;
3. Easy Use with a main floor that includes a kitchen, some entertainment area, at least one (1) bedroom and one (1) full bathroom. The full bathroom will provide at least 30 inches by 48 inches of maneuvering space that allows easy access to the sink, commode and shower or tub.

Uniform Physical Conditional Standards (UPCS) - The HUD requirements that govern the physical condition of Housing Credit developments.

Urban - Counties identified as urban ~~in-on~~ the ~~New Construction County Needs Scores; on the THOMAS Documents Page~~
[THOMAS Documents Page](#).

Urbanicity - The quality or fact of (an area) being urban. The degree to which a given geographical area is urban. Urbanicity designations can be found on the ~~THOMAS Documents Page~~[THOMAS Documents Page](#).

USDA Rural Development - The United States Department of Agriculture's Rural Development housing programs.

Zoning - Written documentation from the appropriate local government authority demonstrating that current zoning and other local land use regulations permit the development as proposed or that no such regulations currently apply to the proposed development in an application for a commitment of MTBA and an allocation of Noncompetitive Housing Credits.



Section 3: Program Eligibility

A. Use of MTBA

Applicants applying for MTBA must demonstrate that a minimum of 50% of the outstanding principal amount of tax-exempt bonds originally issued using an award of MTBA will remain outstanding as of the placed in service date for the development. On the placed in service date, the outstanding principal amount of tax-exempt bonds originally issued using an award of MTBA must meet the requirements of Section 42(h)(4). Either Bond Counsel or a Certified Public Accountant licensed in Tennessee must certify to THDA that this financing requirement is met.

Recipients of a MTBA Firm Commitment Letter must close, issue and sell bonds no later than 11:59 PM Central Time on the closing deadline specified in the MTBA Firm Commitment Letter and must meet all federal tax requirements for Private Activity Bonds.

B. Eligible Developments

1. The proposed development must be:
 - a. New construction of multifamily housing;
 - b. Adaptive Reuse/Conversion of an existing property not currently being used for housing; or
 - c. Acquisition and rehabilitation of Existing Multifamily Housing.
2. The proposed development must meet the following requirements:
 - a. Be a Qualified Low Income Development, containing Qualified Low Income Buildings and Qualified Low Income Units.
 - b. Comply with the Fair Housing Act design and construction requirements for units that are considered “covered multifamily dwellings” designed and constructed for “for first occupancy” after March 13, 1991, using one of HUD’s recognized safe harbors.
 - c. Comply with the Americans with Disabilities Act (ADA), as applicable.
 - d. Comply with all applicable local building codes or State adopted building codes in the absence of local building codes.
 - e. Certification from the design architect will be required following the issuance of the MTBA Firm Commitment Letter. Confirmation from the supervising architect will be required prior to any refund of the Incentive Fee as described in Section 10.
3. All applicants must ~~Waive-waive~~ the ability to participate in the qualified contract request process as described in THDA’s Qualified Contract Process Guidelines (available here: <https://thda.org/pdf/06.01.20-QUALIFIED-CONTRACT-GUIDELINES-REVISED-FOR-VENDOR-NEEDS.pdf>). ~~Section 42(h)(6)(E) and Section 42(h)(6)(F) of the Code.~~
4. Initial Applications proposing new construction ~~and-or~~ Adaptive Reuse/Conversation must include the following:
 - a. Written documentation from the appropriate local governmental authority demonstrating that current Zoning and other local land use regulations permit the development as proposed or that no such regulations currently apply to the proposed development at the time of Initial Application; and
 - b. Documentation that developments proposing single family units, duplexes, or triplexes meet Visitability design requirements. An architect’s certification will be required at Final Application prior to the issuance of IRS Form 8609(s) and prior to any refund of the Incentive Fee as described in Section 10.

C. Eligibility Documentation

An Initial Application shall include each of the following:

1. A Market Study performed by an independent third party in compliance with the Market Study guidelines shown on the THOMAS Documents Page.



2. An Appraisal of the land and buildings performed by an independent third party in compliance with the Appraisal guidelines shown on the THOMAS Documents Page.
3. A Physical Needs Assessment of the proposed rehabilitation activities proposed for an Existing Multifamily Development performed by an independent third party in compliance with the Physical Needs Assessment guidelines shown on the THOMAS Documents Page.
4. A Statement of Application and Certification from the ownership entity in the form and with the substance as shown on the THOMAS Documents Page.
5. A Bond Purchase Agreement Summary Letter fully executed by the bond purchaser in the form and with the substance as shown on the THOMAS Documents Page.
6. A Bond Opinion Letter provided by Bond Counsel certifying that the cost of issuance will be no more than 2% of the original outstanding principal amount of tax-exempt bonds sold to finance the proposed development in a form and with substance as shown on the THOMAS Documents Page.
7. An Issuer Certification.
8. An Inducement Resolution.
9. Evidence of the TEFRA Hearing.

D. Eligible Development Team Members

THDA prefers Development Teams who have successful Tennessee MTBA and/or Housing Credit experience. Successful Tennessee MTBA and/or Housing Credit experience is evidenced by successful constructing or rehabilitating a recent affordable multifamily housing development that used MTBA and/or Housing Credit, maintaining a good track record in the development and on-going operations of the development, and evidencing the capacity to sustain the development in the ever changing regulatory and rental market.

1. Applications for MTBA and Noncompetitive Housing Credits shall be ineligible under this MTBA Program Description when, as of the Initial Application date, a Development Team or individual members of a Development Team identified in the Initial Application have incurred and failed to cure any and all of the following Major SAE(s) that occurred since January 1, 2014:
 - a. The General Partner/Managing Member/Sole Stockholder being removed from the ownership entity of a prior Housing Credit development;
 - a.b. Received THDA approval for a site change, provided, however, there will be no penalty under this Section 3-D-1 if THDA, in its sole discretion, determines that a site change was necessitated by circumstances beyond the applicant's anticipation or control.
 - b.c. An uncured event of default under the Section 1602 or Tax Credit Assistance Programs;
 - c.d. A Fair Housing Act violation, including those involving a finding of discrimination by an adverse final decision from a federal court or a complaints that results in a consent decree or a judgement enforcing the terms of a consent decree;
 - d.e. A foreclosure involving the loss of units from the affordable housing stock or failure to notify THDA of foreclosure (including a deed in lieu of foreclosure transaction);
 - e.f. Submitting to the IRS an IRS Form 8609 that was not created by THDA or submitting to the IRS an IRS Form 8609 that has been altered or contains information inconsistent with the IRS Form 8609 created by THDA;
 - f.g. Failure to meet the federal placed in service deadline for a development that received Housing Credits; or
 - g.h. A development that received Housing Credits being placed in "No Further Monitoring" status by THDA; or
 - h.i. Uncured noncompliance; or
 - i.j. Program fraud or misrepresentation; or



- ~~j-k~~. Actions that adversely conflict with THDA's mission.
2. Applications for MTBA and Noncompetitive Housing Credits shall also be ineligible under this MTBA Program Description when, as of the Initial Application date, any of the following apply to a Development Team or individual members of a Development Team identified in the Initial Application:
- a. Any individual involved in the Initial Application has any one of the following:
 - i. A felony conviction of any type within the last ten (10) years; or
 - ii. A fine, suspension or debarment involving financial or housing activities within the last five (5) years imposed by any federal agency; or
 - iii. A current bankruptcy or a bankruptcy discharged within the last four (4) years or any organization or entity in which the individual had significant control currently is in bankruptcy or had a bankruptcy discharged within the last four (4) years;
 - iv. Individual bankruptcy of a member of the board of directors of an entity that is, or is wholly controlled by, a government entity will not be grounds for ineligibility provided that the individual certifies that he/she will not have substantial decision-making authority with regard to the proposed development; or
 - v. Any suspensions of required state licenses (Tennessee or any other state) within the last ten (10) years.
 - b. An individual currently involved with the developer, development entity, owner, ownership entity, related parties or individuals involved (either directly or indirectly) with the developer, the ownership entity, or related parties (whether formed or to be formed) identified in the Initial Application is currently participating in the Qualified Contract Process; prior to the expiration of the one year term, for another Housing Credit development in Tennessee.
 - c. An individual currently involved with the developer, development entity, owner, ownership entity, related parties or individuals involved (either directly or indirectly) with the developer, the ownership entity, or related parties (whether formed or to be formed) identified in the Initial Application is currently participating in a pre-~~2020-2021~~ Housing Credit development with a first allocation of Competitive Housing Credits in Tennessee for which THDA has not issued IRS Form(s) 8609.
 - d. An individual currently involved with the developer, development entity, owner, ownership entity, related parties or individuals involved (either directly or indirectly) with the developer, the ownership entity, or related parties (whether formed or to be formed) identified in the Initial Application that received an allocation of MTBA in 2018 but failed to issue and sell bonds by the expiration date (original or extended) of the MTBA Firm Commitment Letter and the MTBA Firm Commitment Letter was not released as described in Section 10-H of this MTBA Program Description.
 - e. If any of the following are true regarding an individual previously or currently involved with the developer, development entity, owner, ownership entity, related parties or individuals involved (either directly or indirectly) with the developer, the ownership entity, or related parties (whether formed or to be formed) identified in the Initial Application for MTBA and Noncompetitive Housing Credits for any development receiving an allocation of Competitive or Noncompetitive Housing Credits since January 1, 2014:
 - i. Any pre-~~2020-2021~~ Housing Credit development with an accepted Reservation Notice, but the proposed Housing Credit development failed to meet the federal allocation timeframes and did not obtain a Carryover Allocation Agreement; or
 - ii. Any pre-~~2020-2021~~ Housing Credit development with a fully executed Carryover Allocation Agreement, but the proposed Housing Credit development failed to meet the federal allocation timeframes and did not obtain IRS Form(s) 8609; or
 - iii. Any pre-~~2020-2021~~ Housing Credit development for which THDA issued IRS Form(s) 8609, but the Housing Credit development failed to meet the minimum set-aside test for



low-income tenants as specified in the LURA by the end of the first year of the Credit Period; or

- iv. Any pre-~~2020-2021~~ Housing Credit development that THDA determined to be in violation of the requirements of the applicable QAP regarding developer or related party issues; or
- v. Any pre-~~2020-2021~~ Housing Credit development that involved a “broker” who did not remain involved in the Initial Application through the closing of permanent financing for the Housing Credit development; or
- vi. Any pre-~~2020-2021~~ Housing Credit development that did not meet the requirements of the applicable QAP regarding submission of permanent financing documentation to THDA; or
- vii. Any pre-~~2020-2021~~ Housing Credit development that involved a “consultant” who was determined to be a signatory of construction financing, permanent financing or equity syndications documents or provided a guaranty in connection with construction financing, permanent financing or equity syndication; or
- viii. Any pre-~~2020-2021~~ MTBA Application that received a firm commitment of bond authority but failed to meet the established deadline for issuance and sale of the bonds. Voluntary withdrawal of a MTBA Application in accordance with all applicable program requirements will not cause ineligibility; or
- ix. The application is deemed ineligible pursuant to any other provisions of this MTBA Program Description.

3. Requests for Relief

Prohibition of an individual’s participation in programs administered by the Multifamily Programs Division in Tennessee shall be determined by Multifamily Programs staff. Any individual prohibited due to a Major SAE may appeal the determination to the THDA Executive Director and the THDA Board Chair. The determination of prohibition shall be at the sole discretion of the THDA Executive Director and the THDA Board Chair and shall not be appealable to the THDA Board or the Tax Credit Committee of the THDA Board.

E. Identity of Interests

If an application for MTBA and Noncompetitive Housing Credits involves acquisition of land or buildings, the requirements specified in Section 42(d)(2) of the Code shall apply.

G. Extended Use Agreements - LURA

A LURA is required for developments using MTBA and Noncompetitive Housing Credits. THDA will provide a LURA based on the terms and elections under Section 142(d) of the Code, Section 42(g)(1) of the Code, the QAP, and this MTBA Program Description. The LURA must be executed and recorded in the county where the development is located. The original LURA must be returned to THDA no later than the date specified in the MTBA Firm Commitment Letter.



Section 4: Federal Election

- A. Section 142(d) of the Code requires that ~~qualified-Qualified residential-Residential rental-Rental projects-Projects~~ have income restrictions on a percentage of the ~~residential-units~~ Qualified Low Income Units at all times during the Qualified Project Period. One of the following Federal Elections shall be made in the Initial Application for a MTBA Firm Commitment Letter:
1. 20/50 Test; or
 2. 40/60 Test.
 3. Average Income Test.
- This election is irrevocable once made in the Initial Application.
- B. Developments involving rehabilitation of Existing Multifamily Housing with a prior Housing Credit allocation are restricted to the prior Federal Election.



Section 5: Program Limits

A. Maximum MTBA Per Development

1. New Construction and Adaptive Reuse/Conversion

Applications proposing New Construction or Adaptive Reuse/Conversion may not receive more MTBA than **the lesser of**:

- a. Forty three million dollars (\$43,000,000); or
- b. 60% of the Development's aggregate basis including land, with all previous phases of the same development included in the aggregate basis.

2. ~~Acquisition and~~ Rehabilitation

All expenditures for Limited Rehabilitation, Moderate Rehabilitation or Substantial Rehabilitation must satisfy all requirements of Section 42(e)(3)(A)(ii) of the Code and all of the following as applicable:

a. **Limited Rehabilitation** may not receive more MTBA than **the lesser of**:

- i. Thirteen million seven hundred thousand dollars (\$13,700,000); or
- ii. 60% of the Development's aggregate basis including land, with all previous phases of the same development included in the aggregate basis.

- b. Developments proposing **Limited Rehabilitation** must be rehabilitated so that, upon completion of all rehabilitation, rehabilitation hard costs must be no less than the greatest of 20% of building acquisition cost or six thousand dollars (\$6,000) per unit. The rehabilitation scope of work must include, at a minimum, all work specified in the Physical Needs Assessment along with corrective actions for all deficiencies noted, with regard to interior and exterior common areas, interior and exterior painting and/or power washing, gutters, parking areas, sidewalks, fencing, landscaping, and mailboxes and the replacement of exterior that is 90% or more vinyl with brick/stone veneer, stucco or fiber cement or hardiplank. The replacement of any of these components of the buildings or the site with a Remaining Useful Life of Less than 15 years, must be included in the scope of work as specified using the Fannie Mae Estimated Useful Life Table. Substantially the same scope of work in all units is required, including, without limitation, painting of the entire unit, consistent flooring throughout the development and matching cabinetry within each unit. Certification from the design architect is required following the issuance of the MTBA Firm Commitment Letter. Confirmation from the supervising architect is required prior to any partial refund of the Incentive Fee pursuant to Section 10.

c. Developments proposing **Moderate Rehabilitation** may not receive more MTBA than **the lesser of**:

- i. Sixteen million dollars (\$16,000,000); or
- ii. 60% of the Development's aggregate basis including land, with all previous phases of the same Development included in the aggregate basis.

- d. Developments proposing **Moderate Rehabilitation** must be rehabilitated so that, upon completion of all rehabilitation, rehabilitation hard costs must be no less than the greatest of 25% of building acquisition cost or seven thousand dollars (\$7,000) per unit. The rehabilitation scope of work must include, at a minimum, the scope of work as outlined in the Limited Rehabilitation requirements above, all appliances in all units Energy-Star compliant, and all



work specified in the Physical Needs Assessment along with corrective actions for deficiencies noted, with regard to drywall, carpet, tile, interior and exterior paint, the electrical system, heating and air conditioning systems, roof, windows, interior and exterior doors, stairwells, handrails, and mailboxes. The replacement of any of these components of buildings or the site with a Remaining Useful Life of less than 15 years; must be included as specified using the Fannie Mae Estimated Useful Life Table. ~~It~~ is expected that substantially the same scope of work in all units including painting of the entire unit, consistent flooring throughout the development and matching cabinetry within each unit is accomplished during the rehabilitation. Certification from the design architect is required following the issuance of the MTBA Firm Commitment Letter. Confirmation from the supervising architect is required prior to any partial refund of the Incentive Fee pursuant to Section 10 of this MTBA Program Description.

- e. Developments proposing **Substantial Rehabilitation** may not receive more MTBA than **the lesser of:**
 - i. Twenty-five million dollars (25,000,000); or
 - ii. 60% of the Development's aggregate basis including land, with all previous phases of the same Development included in the aggregate basis.
- f. Developments proposing **Substantial Rehabilitation** must be rehabilitated so that, upon completion of all rehabilitation, rehabilitation hard costs must be no less than the greatest of 30% of building acquisition costs or eleven thousand dollars (\$11,000) per unit. The rehabilitation scope of work must include, at a minimum, scope of work as outlined in the Limited Rehabilitation and Moderate Rehabilitation requirements above, as described in the Physical Needs Assessment along with corrective actions for all deficiencies noted, and the major building systems will not require further substantial rehabilitation for a period of at least fifteen (15) years from the required placed in service date. The replacement of any component of buildings or the site with a Remaining Useful Life of less than 15 years; must be included in the scope of work as specified using the Fannie Mae Estimated Useful Life Table. Substantially the same scope of work is required in all units including, without limitation, painting the entire unit, consistent flooring throughout the development and matching cabinetry within each unit. Certification from the design architect is required following the issuance of the MTBA Firm Commitment Letter. Confirmation from the supervising architect is required prior to any partial refund of the Incentive Fee pursuant to Section 10 of this MTBA Program Description.

3g. Requests for Exceptions

An applicant may submit a written request for an exception to the maximum MTBA amount listed in this Section 5-A and/or to the Noncompetitive Housing Credit limit specified in Section 19-B of the QAP. The written request must include sufficient supporting documentation and information to substantiate the need for additional MTBA and/or Noncompetitive Housing Credit as determined by THDA, in its sole discretion. Only one (1) written request for an exception to the maximum MTBA and/or Noncompetitive Housing Credit limit per application will be considered. Written requests for exceptions to the maximum MTBA and/or Noncompetitive Housing Credit limit may be granted or denied by THDA, in its sole discretion.

B. Maximum Amount of MTBA per Developer or Related Parties

Prior to July 1, ~~2020~~2021, the maximum amount of MTBA that may be committed to a single applicant, developer, owner, or Related Parties shall not exceed sixty million dollars (\$60,000,000). After June 30, ~~2020~~2021, the maximum amount of MTBA that may be committed to a single applicant, developer, owner, or Related Parties shall not exceed thirty 34% of the maximum amount of MTBA available for



~~2020~~2021. THDA will determine, in its sole discretion, if Related Parties are involved and apply this limitation.

C. Limit on Developer's Fee for MTBA with Noncompetitive Housing Credits

1. Notwithstanding the provisions of Section 3-H of the ~~2019-2020~~-QAP, the sum of developer and consultant fees reflected in THOMAS on the development costs page may not exceed 25% of total development costs less cash reserves (see 5 below). If the sum of developer and consultant fees reflected in the development costs worksheet exceeds the amount allowable for related or unrelated parties (see 2 and 3 below), then all developer and consultant fees in excess of the amount allowable for related and unrelated parties (see 2 and 3 below) must be reflected as deferred fees and included in the sources of permanent financing.
2. If the developer and the contractor are **unrelated**, the *non-deferred* developer and consultant fees cannot exceed 15% on the portion of the basis attributable to acquisition (before the addition of the fees), and cannot exceed 15% of the portion of the basis attributable to new construction or to rehabilitation (before the addition of the fees).
3. If the developer and contractor are **related** parties, then the *non-deferred* combined fees for contractor's profit, overhead, and general requirements plus the developer's and consultant's fees, cannot exceed 15% of the portion of the basis attributable to acquisition (before the addition of the fees), and cannot exceed 25% of the portion of the basis attributable to new construction or to rehabilitation (before the addition of the fees).
4. If the **deferred** developer and consultant fees are **greater than** 25% of total development cost minus the amount described in 2 and 3 above, then the application must include evidence satisfactory to THDA, in its sole discretion, that the deferred developer and consultant fees will be repaid and will not jeopardize the financial feasibility of the development.
5. For purposes of this Section, cash reserves are excluded from total development costs.
6. Documentation on the terms of the deferred developer fee portion must be provided with the Initial Application.

D. Limits on Costs of Issuance

As provided in Section 147(g) of the Code, the costs of issuance financed by the proceeds of Private Activity Bonds issued to finance ~~qualified-Qualified residential-Residential rental-Rental~~ projects may not exceed 2% of the proceeds of the Private Activity Bond issue.



Section 6: Special Request Applications

A. Special Conditions

1. ~~MTBA available for special request applications is offered on a first-come, first-served basis, subject to the availability of MTBA as of the date a Special Request Application is received by THDA. When a Special Request Application is received by THDA, the amount of MTBA requested shall be set aside and will not be available for other MTBA requests under this MTBA Program Description until the Special Request Application is evaluated and acted upon by the Tax Credit Committee of the THDA Board of Directors. MTBA for Special Request Applications will be set aside from MTBA remaining available upon receipt of an application pending review and Tax Credit Committee Action.~~
2. ~~Special request applications are exempt from the Total Development Cost Limits as described in Section 3-G and Section 19-C of the QAP.~~
3. ~~Special request applications approved by the Tax Credit Committee of the THDA Board of Directors will not count against the maximum amount of MTBA per developer or related parties as defined in Section 5.~~

A.B. Eligibility

1. ~~A Special Request Application may receive MTBA subject to approval by the Tax Credit Committee of the THDA Board of Directors. A Special-special Request-request Application application must satisfy, without limitation, all of the following conditions as determined by THDA, in its sole discretion:~~
 - ~~1a. A Special-special Request-request Application-application must propose preservation of an Existing Multifamily Development with current income and rent restrictions. The Initial Application must include documentation, acceptable to THDA, in its sole discretion, verifying the current income and rent restrictions.~~
 - ~~ab. Current income and rent restrictions are limited to participation in one of the following programs:~~
 - i. The Low Income Housing Credit program;
 - ii. The MTBA program; or
 - iii. A program administered by USDA or HUD, AND
 - ~~c.b. A Special-special Request-request Application-application must propose preservation of a minimum of four hundred (400) Qualified Low Income Units at a single location/site, as determined by THDA, in its sole discretion. The minimum MTBA request for a Special-special Request-request Application-application is forty million dollars (\$40,000,000) and the maximum MTBA request is for this type of a Special Request Application is one hundred million dollars (\$100,000,000). OR~~
 - ~~c. A Special Request Application must propose a package of multiple USDA Rural Development developments submitted requesting a minimum of twenty five million dollars (\$25,000,000) of MTBA.~~
- ### **C. Process for Special Request Applications**
1. ~~Special request applications will be reviewed by THDA to determine completeness and eligibility.~~
 - ~~a. If THDA determines that a Special Request Application is not eligible, the applicant may request, in writing, that the determination be reviewed by the THDA Executive Director and the THDA Board Chair, and the Tax Credit Committee Chair.~~
 2. ~~THDA staff will confirm that sufficient MTBA for the special request application remains available prior to submitting the special request application to the Tax Credit Committee for its consideration.~~
 2. ~~Special Request Applications approved by the Tax Credit Committee of the THDA Board of Directors will not count against the maximum amount of MTBA per developer or related parties as defined in Section 5.~~



- ~~3. A single applicant, developer, owner, or related parties, as determined by THDA, in its sole discretion, may only submit one (1) Special Request Application per calendar year.~~
- ~~4. The MTBA amount specified in Section 1 is not available for commitment to Special Request Applications. MTBA committed to a Special Request Application will come from additional private activity bond authority if requested and if received by THDA.~~
- ~~53. The MTBA Conditional Commitment Letter issued to a Special-special Request-request Application-application will have an expiration date of December 21, 20202021.~~
- ~~64. The recipient of a MTBA Conditional Commitment Letter issued for a Special-special Request request Application-application must notify THDA of its intent to convert the MTBA Conditional Commitment Letter to a MTBA Firm Commitment Letter no less than 65 calendar days prior to the date the applicant wishes to receive the MTBA Firm Commitment Letter.~~
- ~~7. The Tax Credit Committee of the THDA Board of Directors, in its sole discretion, may approve no more than one (1) Special Request Application in 2020. The Tax Credit Committee of the THDA Board of Directors, in its sole discretion, may choose to not approve any Special Request Applications in 2020.~~



Section 7: THOMAS Submission of Applications

A. Applications

1. All applications involving MTBA, including Firm and Conditional Initial Applications, must be submitted electronically through THOMAS. If THDA determines that THOMAS malfunctions in a way that renders applicants unable to submit applications, THDA will provide alternative instructions via e-mail BLASTS and THDA website postings.
2. All fees required at the time of application, as specified in Section ~~4011~~, must be received by THDA via wire transfer prior to any determination of eligibility or scoring for any application.
3. Initial Applications must indicate whether the applicant is requesting a MTBA Conditional Commitment Letter or a MTBA Firm Commitment Letter as described in Section ~~9-10~~ of this MTBA Program Description.

B. Supporting Documents

1. Supporting documents as specified on the THOMAS Documents Page and referenced in the THOMAS User Manual as part of an Initial Application for a MTBA Conditional Commitment Letter, a MTBA Firm Commitment Letter, or subsequent applications must be uploaded into THOMAS as specified in the THOMAS User Manual.
2. The THOMAS Documents Page contains required forms and templates for required third party reports.
3. THDA will not accept cost certifications, market studies, physical needs assessments and appraisals prepared by parties THDA has determined are not independent from other members of the Development Team or Related Parties.

C. MTBA Firm Commitment Eligibility Documents

The Initial Application for MTBA must include the following:

1. Statement of Application and Certification; and
2. Bond Purchase Agreement [Summary Letter](#); and
3. Bond Opinion Letter; and
4. Issuer Certification; and
5. Inducement Resolution; and
6. Evidence of the TEFRA Hearing; and
7. Commitment for Permanent Financing; and
8. Written documentation from each service provider that all necessary utilities (i.e., electricity, gas, sewer, and water) are available at the proposed site.

D. MTBA Conditional Commitment Eligibility Documents

The Initial Application for MTBA must include the following:

1. Statement of Application and Certification; and
2. Issuer Certification; and
3. Inducement Resolution; and
4. Evidence of the TEFRA Hearing.

E. Multiple Applications for a Single Development

Only one application may be submitted and considered for a development. Multiple applications submitted as separate phases of one development will be considered as one development and reviewed as one application. THDA reserves the right to request additional information or documentation, if necessary, to determine if applications submitted will be considered and reviewed as one or more developments.



F. Multiple Developments Tied to a Single Bond Issuance

When a single issuing entity proposes a single bond issue to provide financing for multiple developments, the following requirements, at minimum, will apply in addition to all other applicable requirements:

1. A separate and full MTBA electronic application must be submitted for each development; and
2. An application fee as described in Section 11 must be submitted with the application for each development; and
3. If one or more of the developments is outside the jurisdiction of the issuing entity, the application must include documentation satisfactory to THDA, in its sole discretion, that the issuing entity is permitted to, and the jurisdiction in which the development is located consents to, the issuance of the bonds.



Section 8: Application Review Process

A. Applications Must Be Complete

1. An application must be complete, as determined by THDA in its sole discretion, based on the requirements in this MTBA Program Description and the on-line application in THOMAS.
2. **The applicant is solely responsible for the submission of an application with complete and current information.**

B. Information Must Be Current

Appraisal, Physical Needs Assessment, and Market Study information older than six (6) months, as determined by the date prepared and information contained therein will not be considered current. Other documentation, including any commitments, with expiration dates or approval dates that have passed will not be considered current. Applications are incomplete when they include materials that are not considered current.

C. Review of Applications Requesting a Commitment of MTBA

THDA will issue Evaluation Notices that may request additional documentation and/or information for purposes of clarification of eligibility, scoring and financial feasibility. Evaluation Notices will be issued in the following manner.

Table 8 - 1: Schedule of Evaluation Notices and Deadlines	
Evaluation Notice	Deadline for Response
1	5 business days
2	2 business days
3	1 business day

Applications with uncured deficiencies may be removed from consideration under this MTBA Program Description if the deficiencies are uncured after three Evaluation Notices have been. Applicants may resubmit the application for a commitment of MTBA at a later date but will be subject to a resubmission fee as described in Section 11 of this MTBA Program Description and will be in line for a possible MTBA commitment based on the date the application is resubmitted.



Section 9: Threshold Requirements and Scoring

A. Threshold Requirements

Developments requesting Noncompetitive Housing Credits must satisfy the applicable requirements of Section 19 of the ~~2019-2020-2021~~ QAP.

B. Minimum Score

An eligible application must propose scoring of at least 60 points under the scoring system specified in Section 19 of the ~~2019-2020~~ QAP.



Section 10: Commitment of MTBA

A. MTBA Conditional Commitment Letter

1. THDA will issue a conditional commitment letter for ~~2020-2021~~ MTBA (“Conditional Commitment Letter”) after determining that an eligible applicant has met all applicable requirements of this MTBA Program Description as determined by THDA in its sole discretion.
2. The expiration date of any MTBA Conditional Commitment Letter is December 21, ~~2020~~2021.
3. **A Conditional Commitment Letter DOES NOT GUARANTEE an applicant that THDA will issue a Firm Commitment Letter.**
4. An applicant with a Conditional Commitment Letter must notify THDA of its intent to convert a Conditional Commitment Letter to a Firm Commitment Letter no less than 45 calendar days prior to the date the applicant wishes to receive the Firm Commitment Letter and THDA may issue a Firm Commitment Letter, subject to the availability of MTBA at the time THDA receives such notification and subject to compliance with all requirements for a Firm Commitment Letter.
5. **THDA may issue Conditional Commitment Letters that, in the aggregate, exceed the amount of MTBA available under this MTBA Program Description.**

B. MTBA Firm Commitment Letter

1. THDA will issue a firm commitment letter for ~~2020-2021~~ MTBA (“Firm Commitment Letter”) after determining that an eligible application has met all applicable requirements of this MTBA Program Description.
2. A Firm Commitment Letter will have an expiration date either ninety (90) or one hundred and twenty (120) calendar days from the date of issuance. The expiration date will be determined by THDA, in its sole discretion.
 - a. Any Firm Commitment Letter issued before September 22, ~~2020-2021~~ will expire ninety (90) calendar days from the date of issuance.
 - b. Any Firm Commitment Letter issued on or after September 22, ~~2020-2021~~ will expire on December ~~24~~14, ~~2020~~2021.
3. A Firm Commitment Letter issued before August 1, ~~2020~~2021, may be extended one time for a maximum of thirty (30) calendar days following the original expiration date. An Extension Fee as described in Section 11 must accompany the extension request. An extension request may be approved or denied by THDA, in its sole discretion.
4. **THDA will not issue Firm Commitment Letters that, in the aggregate, exceed the amount of MTBA available under this MTBA Program Description.**



Section 11: Fees, Partial Refunds of Fees, and Fees Retained by THDA

A. Wiring Instructions

All fees should be in the form of an electronic wire.

Table 10 - 1: Wiring Instructions	
Bank:	US Bank
ABA:	064000059
BNF:	THDA Clearing Housing
BNF A/C:	151203673398
BNF ADDRESS:	502 Deaderick Street Andrew Jackson Building, Third Floor Nashville, TN 37243
OBI:	Housing Credit/Bond Application Fees + TN ID Number(s). Applicants may send one wire to cover multiple applications however, applicants must enter the applicable TN ID Number(s) in the OBI field on the wire.

Applicants are encouraged to send the wire confirmation to thomas@thda.org.

B. Application Fee

An Application Fee of one thousand five hundred dollars (\$1,500) must be submitted to THDA at the time an application is submitted. **THE APPLICATION FEE IS NOT REFUNDABLE.** If the fee is not submitted at the time an application is submitted, THDA will not review the application and will notify the applicant that the application has been rejected.

C. Special Request Application Fee

A Special Request Application Fee of five thousand dollars (\$5,000) must be submitted to THDA at the time a Special Request Application is submitted. **THE SPECIAL REQUEST APPLICATION FEE IS NOT REFUNDABLE.** If the fee is not submitted at the time an application is submitted, THDA will not review the application and will notify the applicant that the application has been rejected.

D. Resubmission Fee

A Resubmission Fee of seven hundred and fifty dollars (\$750) must be submitted to THDA if an application is resubmitted after rejection for uncured deficiencies based on requests for additional documentation and/or information for purposes of clarification as specified in the notice described in Section 7. **THE RESUBMISSION FEE IS NOT REFUNDABLE.**

E. Conditional Commitment Letter Fee

A Conditional Commitment Letter Fee of five thousand dollars (\$5,000) must be submitted in order for the Conditional Commitment Letter to be processed. **THE COMMITMENT FEE FOR A CONDITIONAL COMMITMENT LETTER IS NOT REFUNDABLE.**



F. MTBA Firm Commitment Letter Fee and Incentive Fee

1. Applications receiving a Firm Commitment Letter from THDA for a specific amount of MTBA must submit a Commitment Fee and an Incentive Fee in order for the Firm Commitment Letter to be processed.
2. Fees for a ninety (90) day Firm Commitment Letter:
 - a. The Commitment Fee is an amount equal to 1% of the MTBA approved by THDA.
 - b. The Incentive Fee is an amount equal to 20% of the Commitment Fee.
3. Fees for a one hundred and twenty (120) day Firm Commitment Letter:
 - a. The Commitment Fee is an amount equal to 1.5% of the MTBA allocated to the local issuer.
 - b. The Incentive Fee is an amount equal to 20% of the Commitment Fee.
4. **THE COMMITMENT FEE FOR A FIRM COMMITMENT LETTER IS NOT REFUNDABLE.**

G. Refund of Incentive Fee Following Issuance of MTBA

1. The following documentation, without limitation, must be submitted by the applicable deadlines to be eligible for a refund of the Incentive Fee:
 - a. Documentation from Bond Counsel (including, without limitation, a ~~Closing~~~~-closing~~ ~~Confirmation~~~~-confirmation~~ ~~Letter~~~~letter~~) must be submitted no later than the expiration date of the Firm Commitment Letter;
 - b. Acceptable proof that all units are constructed and the development is placed in service must be submitted no later than two years after the expiration of the MTBA Firm Commitment Letter;
 - c. Acceptable proof that all forms to be filed by the Bond Issuer have been completed and filed to THDA's satisfaction must be submitted no later than two years after the expiration of the Firm Commitment Letter.
2. If the bonds were issued and sold on or before 11:59 PM Central Time on the date specified in the Firm Commitment Letter without a receiving an extension and all the conditions of Section ~~10-11~~ (above) have been met, THDA will refund the **FULL** Incentive Fee.

H. Release of Commitments and Refund of Incentive Fee

If recipients of Conditional Commitment Letters or Firm Commitment Letters release the MTBA allocated to them before the deadline in the Firm Commitment Letter when bonds will not be sold using the MTBA, THDA will refund a percentage of the Incentive Fee to support the earliest release of the committed MTBA. Voluntary withdrawal of a MTBA Commitment Letter in accordance with all applicable program requirements will not cause ineligibility as described in Section 3 of this MTBA Program Description and the MTBA application for the development may be resubmitted in ~~2020~~2021.

Table 11 - 2: Deadline for Commitment to be Released and Incentive Fee Refund

Phase	90 - Day Commitments	120 - Day Commitments	Amount Refunded
A	days 1 - 30	days 1 - 45	100%
B	days 31 - 60	days 46 - 90	50%
C	days 61 - 89	days 91 -119	25%
D*	days 90 - 119	days 120 - 149	0%
* only applicable if a deadline extension is granted by THDA			



I. Incentive Fee Retained by THDA

1. If a request for an extension to the deadline for closing the sale of the bonds beyond 11:59 PM Central Time on the original date specified in the Firm Commitment Letter is approved in accordance with Section 910, THDA will **RETAIN** the **FULL** amount of the Incentive Fee.
2. If the bonds are not issued and sold by the expiration date (original or extended) of the Firm Commitment Letter, and the Firm Commitment Letter has not been released as described in Section ~~4011~~-H, and no extension has been requested or granted as described in Section ~~4011~~-H, THDA will **RETAIN** the **FULL** amount of the Incentive Fee and a MTBA application for the development may not be resubmitted in ~~2020~~2021.
3. If the bonds are issued and sold, but the development is not placed in service, THDA will **RETAIN** the **FULL** amount of the Incentive Fee.

J. Monitoring Fee

Developments that receive MTBA and Noncompetitive Housing Credits are subject to all ~~Monitoring~~ monitoring Fees-fees set out in Section 5 of the QAP.

K. Modification Fee

Developments that receive MTBA and Noncompetitive Housing Credits and request modification are subject to Modification Fees as set out in Section 5 of the QAP. Payment of this fee does not guarantee approval of proposed changes or modifications.

L. Extension Fee

Developments that receive MTBA and Noncompetitive Housing Credits and request an extension are subject to Extension Fees as set out in Section 5 of the QAP. Payment of this fee does not guarantee approval of an extension.

M. Requests for Refunds

If the applicant is eligible for any refund as described in Section 11-G or Section 11-H above, the applicant must submit a written request for a refund. The written request for a refund must be submitted no later than 1 year after the issuance date reflected on IRS Form(s) 8609. If the last day to submit a written request for a refund is not a THDA business day (e.g. weekend or holiday), the deadline will be the following THDA business day.



Section 12: Noncompetitive Housing Credits

- A. THDA will determine eligibility for Noncompetitive Housing Credits and the amount of Noncompetitive Housing Credit to be allocated to a development, up to the maximum amount permissible with MTBA financing. Any development seeking Noncompetitive Housing Credits must apply for and is subject to the applicable QAP in the same calendar year in which MTBA is committed. An application for Noncompetitive Housing Credits is subject to eligibility and threshold requirements as well as fees, including monitoring fees, found in the applicable QAP. **Receipt of a Firm Commitment Letter does not guarantee receipt of Noncompetitive Housing Credits.**
- B. **The maximum amount of annual Noncompetitive Housing Credit that may be allocated to a single development is three million dollars (\$3,000,000).** In making this determination, THDA will consider the physical location of the development; the relationships among owners, developers, management agents, and other development team participants; the structure of financing; and any other information that might clarify whether applications reflect a single development or multiple developments.
- C. If an Initial Application for Competitive Housing Credits and an application for MTBA and Noncompetitive Housing Credits are submitted for the same development, the Initial Application for Competitive Housing Credits will be deemed ineligible.
- D. The maximum obtainable rents supported by the Market Study must be proposed for the proposed development and must support reasonable operating expenses and maximum mortgage debt service prior to Noncompetitive Housing Credits filling any financial “gaps”. This may require additional financing from other sources over and above the maximum amount of MTBA or Noncompetitive Housing Credit committed to the development by THDA.



Section 13: Controlling Document

Although there is one application for MTBA and Noncompetitive Housing Credits; the MTBA Program Description applies to the MTBA and the ~~2019-2020~~ 2021 QAP applies to the Noncompetitive Housing Credits.

