

Texas State Affordable Housing Corporation

**Request for Proposals
for
MultiFamily Developers
for Construction of New Housing
in McAllen, Texas using
Tax-Exempt Bond Financing**

Texas State Affordable Housing Corporation
1005 Congress Avenue, Suite 500
Austin, Texas 78701

Request for Proposals

The Texas State Affordable Housing Corporation (The “Corporation”) is requesting proposals (the “RFP”) from qualified individuals and/or firms (the “Respondents”) interested in working with the Corporation and with the City of McAllen, Texas (the “City”) for the development and construction of an affordable multifamily apartment complex (the “Development”), using private activity bonds and low income housing tax credits (LIHTC).

Questions about the RFP can be directed in writing to:

Ms. Katherine Closmann
Texas State Affordable Housing Corporation
1005 Congress Avenue, Suite 500
Austin, Texas 78701
Telephone (512) 477-3555, Ext. 424
Fax (512) 477-3557
Email: kclosmann@tsahc.org

All questions and responses will be posted on the Corporation’s web site (www.tsahc.org) within the Multifamily Bond Programs section. Questions will be accepted until 5:00 p.m. on May 11, 2004. Submissions are due by not later than 2:00 P.M. Central Standard Time, Friday, May 21, 2004.

General Information

The Corporation is interested in contracting with an individual and/or firm who is experienced, qualified, and interested in partnering with the Corporation and the City for the comprehensive development and construction of apartments in McAllen. If a proposed Development is approved by the Corporation, the Texas Attorney General, and (if required) the Texas Bond Review Board, the selected Respondent will receive tax-exempt private activity bond allocation that the Corporation has reserved specifically for the selected Development. In addition, the selected Respondent will apply for 4 percent LIHTC allocation from the Texas Department of Housing and Community Affairs (TDHCA).

The Corporation may provide limited soft funding for the selected Development. Such funding, if any, should be proposed by the Respondent for the least amount necessary to make the Development financially feasible. In addition, the City may provide additional soft funding in the form of limited federal funds (e.g. CDBG, HOME). The remaining funding for the selected development will be tax-exempt bond financing, LIHTC equity and other funds obtained by the Respondent.

The Development and the proposed financing must comply with all state and federal requirements, including without limitation Internal Revenue Code and related regulations and to requirements relating to low income housing tax credits.

Detailed Development Description

The City has requested that a mixed income multifamily complex be constructed in the City. The Development must be located north of Nolana Avenue, west of the HCWID #3 Main Canal, south of 5 ½ Mile Line, and east of Bentsen Road. The City has provided extensive infrastructure within this area, which is further identified in the City’s comprehensive plan, *Foresight McAllen*. The Development should be located within ¾ mile of a public school or park, or proposed public school or park. The Development should be located within ¾ mile of public transportation. The Development should provide on-site park amenities such as playground equipment, walking trails, community room, swimming pool, or other recreational amenities. The Development should provide some resident services, such as day care, after school programs, public information center for resident services, or other similar services.

The Development must meet the construction standards of the International Building Code, as adopted by the City.

To inquire about the City’s preferences, contact Ed Taylor in the Planning and Zoning Department at (956) 972-7000.

The Roles of the Corporation and the City

The Corporation has assembled a team of consultants for legal and financial planning to assist in the implementation of this initiative, and to the maximum extent, their costs will be paid from the tax-exempt bond and tax credit financing. Upon selection, the Respondent is responsible for preparing an LIHTC application for 4 percent tax credits and timely submitting it to TDHCA. The Corporation or the City will assume one or more of the following roles for the selected Development:

- A. *Bond Issuer*. Private Activity volume cap funds from the Corporation will be made available for use by the Respondent for the construction and permanent financing of the Development.
- B. *Provider of Operating Subsidies*. The Corporation or the City may make financial contributions toward the cost of constructing and operating the Development.
- C. *Asset Manager*. The Corporation will monitor and enforce the terms of a Regulatory and Operating Agreement for any multifamily units considered “affordable.”
- D. *Development Proposal Coordinator*. The Respondent, with cooperation from the City, must insure that the Development meets all of the Corporation’s requirements for affordable multifamily financing. The Respondent shall work closely with the City in the preparation and submission of a bond finance proposal and all required legal and program documentation.
- E. *Management*. The Corporation does not intend to have significant involvement in the day-to-day development activities. The City, the Corporation and the Respondent will negotiate the terms of the management of the property, which is expected to be done by a private property management firm.

Respondent’s Role

The responsibilities of the selected Respondent(s) will include, but are not limited to, the following:

- Undertake predevelopment activities.

- Develop architectural plans consistent with this RFP/Q and the City’s requirements and guidelines, and obtain City and other required approvals and permits.
- Develop and manage an implementation schedule.
- Obtain additional leveraged funds from other sources.
- Prepare and submit a Low Income Housing Tax Credit application to TDHCA for 4 percent tax credits.
- Develop a project budget.
- Coordinate all development activities, including reporting and budget requirements, with the City.
- Determine a general management structure, prepare a management plan for the property, and recommend a property manager, subject to approval by the Corporation.
- Provide all necessary financial guarantees and assurances to the lenders and tax credit investors.
- Solicit construction bids and enter into a contract for construction.
- Oversee construction and ensure completion in a timely manner.
- Obtain commitments from lenders and tax credit investors for financing the Development, such commitments to be with parties reasonably acceptable to the Corporation.
- Deliver units consistent with Federal, State, and City requirements and guidelines.

Income Structure and Use Restrictions

The Corporation and the City seek to provide housing to a mix of eligible households, including the low and very low income. The Corporation and the City require that at a minimum the units in the Development be set aside as follows: 20 percent of the units reserved for residents at or below 50 percent of the area median income, **or** 40 percent of the units reserved for residents at or below 60 percent of the area median income. **(A Respondent will be disqualified from consideration if one of these minimum set aside requirements is not met)**

To receive the maximum amount of points, the City has requested that at least 30 percent of the units be set aside for market rate residents.

The rents for the low-income set aside units cannot exceed 30 percent of the applicable area median gross income limitation.

Development Design Review

The Development must obtain all required City permits including all building permits and must be appropriately zoned and platted.

Submission Requirements

The objective of the RFP is to determine respondent interest and to consider the selection of a qualified respondent. Submissions to this RFP must include brief summary responses to the following in the order listed along with each section tabbed. The Corporation reserves the right to request additional information upon review of initial submissions.

1. Title page.
2. A summary of the proposed transaction. Describe the proposed Development in detail, including how the Development will meet the specifications set forth in the Detailed Development Description above and how the Development will meet the Income Structure and Use Restrictions set forth above. Respondents should also submit cost per unit calculations, including the assumptions that were made to make those calculations.
3. A location map showing the location and approximate outline of the tracts involved.
4. A zoning map showing the existing zoning of the property and surrounding areas, demonstrating that the project, as proposed, is zoned for the intended use.
5. If already submitted, a copy of the application to the Texas Department of Housing and Community Affairs for LIHTC.
6. Evidence that the Respondent either (i) owns the site for the proposed Development or (ii) has a contract or an option to purchase the Development site.
7. Audited financial statements of the Respondent for the last three years. These statements should demonstrate the financial capacity of the Respondent, or the entity that would most likely be responsible for executing all applicable guarantees, and must show a net worth sufficient to provide the necessary resources to construct, operate, and manage the Development. The Respondent shall fully explain any negative audit findings. Provide the names of three banks or other financial institutions that can provide business references and the names and telephone numbers of contact persons. Respondents should be aware that the Corporation is subject to the provisions of the Texas Public Information Act, and that information received by the Corporation may be subject to open records requests.
8. An estimated schedule of construction or rehabilitation. If the proposal is for acquisition/rehabilitation, any and all physical needs assessment reports must be submitted.
9. Photographs of the site of the proposed Development.
10. Evidence of local support for the Development from the City.
11. With respect to new construction, a market study showing the need in the area for additional affordable housing, as proposed. The study should be prepared by an independent third party having no identity of interest with the development partners or general contractor.
12. Submit a proposed fee structure expressed as a percentage of development costs or construction costs, as appropriate. The proposed fees should include the amount and timing of payment of the developer fee, overhead, contractor profit, property management fee, and other similar fees and costs.

13. Provide the proposed ownership structure and identify the various legal entities to be involved in the construction, ownership, operation, and management of the improvements and the nature of their involvement. With respect to the development entity and/or the management agent, a precise description of any joint venture arrangements, including respective equity and decision making interests shall be provided. Describe the roles and responsibilities of each team member on this Development and provide resumes that include qualifying experience. Provide certification by the Respondent stating the nature of any relationship, business or otherwise, (for example, common or related board members) between or among the team members, including the Respondent, the proposed management company (if acquisition), the seller(s) of the land on which the Development will be built, the underwriter or placement agent, and any other party related to the transaction.

14. Certification by the Respondent and Respondent's principal(s) that they are in good standing with the Corporation, TDHCA, and the City, do not have any outstanding compliance issues with the Corporation, TDHCA, or the City, and have not had any compliance issues in the last three years, or full disclosure of any problems and issues.

15. Certification by the Respondent and any underwriter or placement agent for the bonds stating that they have read and understand the Corporation's Guidelines and the RFP and acknowledging (a) that all exceptions to the Guidelines and RFP must be requested in writing by the Applicant with an explanation of the need for the exception, (b) that all exceptions to the Guidelines and RFP are subject to the review and/or approval by the Board of Directors of the Corporation, and (c) that complying with the Guidelines and RFP does not guarantee approval of the transaction by either the Corporation's Board of Directors or the Texas Bond Review Board.

16. Certification by the Respondent and Respondent's principal(s) that they have not been involved during the past five years and are not currently involved in litigation regarding the development and/or financing of a property under the Corporation's or TDHCA's multifamily bond programs, the LIHTC program, or any City program, or full disclosure of any litigation.

17. Certification by the Respondent and Respondent's principal(s) that they do not have outstanding issues with the Internal Revenue Service regarding tax-exempt bond financed or LIHTC properties, or full disclosure of any outstanding issues.

18. If applicable, describe and provide supporting evidence (e.g., certification by a governmental agency) of the status as a minority business enterprise (MBE) and/or women owned business enterprise (WBE), or, if applicable, describe your firm's history of utilizing MBEs and WBEs.

19. Describe past experience working on affordable housing developments with TDHCA, the Corporation, and local government entities, including cities or local housing finance corporations. Include a description of the work, and name and telephone number for a contact representative at each (maximum of 4 examples for each government entity with which you worked).

20. Describe experience in the development of similar mixed income affordable housing developments. Include the name and address of the property(s), property description, description of the participation of the Respondent, LIHTC allocation year (if applicable), and the name and telephone number of a reference person for each property (maximum of 4 examples).

21. Describe experience in the development of properties using tax-exempt bond financing and/or LIHTC. Include the name and address of the property(s), property description, whether new construction or acquisition and rehabilitation, whether 9% or 4% LIHTC and allocation year, description of the participation of the Respondent, identification of any participation by a housing-related nonprofit or City or other public entity where the property is located, and the name and

telephone number of a reference person(s) for each property (maximum of 4 examples of properties completed using both LIHTC and tax-exempt bond financing, and if no properties completed using both financing methods, list a maximum of 4 properties completed using either tax-exempt bond financing or LIHTC and specify which was used).

22. Submit a schedule of Sources and Uses of Funds. The Sources and Uses schedule should identify by name all companies or individuals to receive payments, including, but not limited to, developer's fees, real estate commissions, underwriting fees, operating working capital (if any) and borrower's working capital(if any), and should specify whether the payments will be from bond proceeds or other proceeds. Submit also a general Development and Operating Proforma that presents the primary elements of the Development and operating costs, as well as the necessary operating projections for the Development. It is understood that these are preliminary estimates. For the estimate, the Respondent should assume that the Development will pay all ad valorem taxes.

The narrative of the financing plan should clearly identify the amount of the Corporation or City resources that are needed to make the Development financially feasible as well as the amount of tax-exempt volume cap allocation and Low-Income Housing Tax Credits and other private resources that will likely be available for the Development. The plan should also identify any anticipated cash investment by the Respondent.

The financing plan should include an initial proforma and a reasonably detailed 10-year projected operating budget in balance. The development proforma should show all sources and uses of development funds and reasonably detailed explanation for development costs, including all fees for professional services, working capital, and other expenses. The 10-year proforma should show rents or other payments for each distinct type of housing unit. It should also break operating expenses into typical, separate categories. Trending assumptions should be clearly stated and documented. A Year One Operating Budget must be included.

23. Provide a list of all properties for which the Respondent or Respondent's principals have received TDHCA housing construction or rehabilitation funding. Please list the property name, the name of the legal owner of the property, the type of funding, and the city where the property is located.

Response Submission and Approval Procedures

Response Filing Requirements

A Respondent desiring to respond to this RFP shall complete and file with the Corporation one (1) original and three (3) copies of the RFP response (the "Response").

The Response (original and three copies) shall be filed with the Corporation by mailing or delivering the same to the following address:

Ms. Katherine Closmann
Texas State Affordable Housing Corporation
1005 Congress Avenue, Suite 500
Austin, Texas 78701
(512) 477-3555, Ext. 424
(512) 477-3557 (Fax)

Unless otherwise agreed to by the Corporation, one copy of the response should be provided to the Corporation's Financial Advisor, Bond Counsel and Issuer's Counsel by the time specified in this RFP. The Corporation's Financial Advisor, Bond Counsel and Issuer's Counsel are listed below:

Financial Advisor: Mr. Robin Miller
First Southwest Company
300 West 6th Street
Austin, Texas 78701
(512) 481-2075

Bond Counsel: Ms. Kathryn Garner
Andrews Kurth LLP
600 Travis, Suite 4200
Houston, Texas 77002
(713) 220-3948
(713) 238-7298 (Fax)

Issuer's Counsel: Mr. Kent Smith
Jackson & Walker, L.L.P.
100 Congress, Suite 1100
Austin, Texas 78201
(512) 236-2353
(512) 236-2280

Preliminary Official Action.

Upon compliance with the response requirements set forth in the RFP, the Corporation and the City will conduct a preliminary review of all Responses. If all of the Response requirements are met and the proposed Development meets the Corporation's and the City's purposes and guidelines, the Development will be scored by the Corporation in accordance with the criteria identified in Appendix A. (The Corporation will provide a copy of the Response to the City. The City may evaluate each Response and may provide its written comments regarding its evaluation to the Corporation staff.)

The Corporation's Board of Directors will have an opportunity to call any Respondent before the Board (at the Board's discretion) to review the following items:

- The amount of volume cap that will reasonably support the financing structure (recognizing the limits of the Corporation's allocation);
- Evidence of community support for the Development;
- Qualifications of Development team;
- Evidence of financial feasibility of the Development and cost efficiency of bond financing structure – The Corporation reserves the right to impose a cap on any volume cap requests;
- Evidence of commitment of all long term development financing sources;
- Evidence of long term affordability of rents for persons with low income;
- Evidence and support of adequate market for the units;
- Demonstration that the Development will not adversely impact existing affordable housing properties in the identified market area; and

- Other information relating to the RFP, the proposed Development, or the Respondent.

The City will also have an opportunity to appear before the Board to make its comments on the Responses. Based on any public testimony before the Corporation's Board of Directors regarding a Response, the Corporation's Board may increase or decrease scoring provided by Corporation staff. In reviewing the scoring the Corporation's Board will give priority to Developments that best demonstrate the following characteristics:

- Provision of quality housing within the community for persons with greatest need;
- Provision of quality housing that exceeds the requirements of this RFP;
- Affordability for low income residents;
- Local support from elected officials and other community leaders;
- Reasonableness of all costs and fees;
- Ability to quickly and efficiently close their financing;
- Ability to quickly and efficiently start and complete construction; and
- Efficient use of all financing resources.

The Corporation may consider such additional criteria it deems necessary in its discretion to achieve maximum benefit of the resources available to it for financing affordable residential rental facilities. Such additional factors may include property location, community and economic impact, and financing the most qualified developments with limited resources.

The Corporation reserves the right in its sole discretion to modify, suspend or amend this program at any time, with or without further notice to any interested party. All costs incurred in the response or development process are the sole responsibility of the Respondent. All decisions of the Corporation are subject to such additional conditions, restrictions and requirements as determined by the Corporation in its sole discretion. In addition, the Corporation's selection of developments for possible allocation of private activity bond cap is subject to final allocation approval by the Texas Bond Review Board.

At the Board's next meeting following the oral presentations, (or at the Board's discretion, at the same meeting where oral presentations are made) the Board may take preliminary official action to adopt an inducement resolution evidencing the Corporation's intent to issue obligations with respect to the Development, if all the requirements set forth herein are met. In order for the Corporation to take preliminary official action, the preliminary review of the Response must demonstrate with reasonable certainty that:

(a) the Response, the obligations, and the Development will qualify for final approval by the Corporation in accordance with this RFP and the requirements set forth in Appendix B; and

(b) all governmental approvals with respect to the obligations, the LIHTC, and the Development will be obtained.

If the Corporation does not grant preliminary approval of the Response, the Corporation will so advise the Respondent. The Corporation reserves the right not to approve any Responses, even one which is awarded the most points in the initial or final scoring of the Responses. The Corporation also reserves the right to approve more than one Response.

Any preliminary official action of the Corporation should not be construed as an indication as to the marketability of obligations, or as the final approval of the Development by the Corporation, its Financial Advisor or Bond Counsel. Rather, it is an indication that the Corporation will attempt to issue its obligations for the Development subject to, (i) a readiness to proceed by the Respondent with financing structure approval process, (ii) the Respondent's continuing compliance with these Regulations and cooperation in providing any and all requested information to the Corporation, (iii) approval by the Texas Bond Review Board of the sale of obligations, (iv) market conditions and terms acceptable to the Corporation and to its staff and consultants, and (v) acceptable evidence of local support for the Development and approval by the Texas Attorney General of the issuance of the obligations.

AFTER THE CORPORATION'S ADOPTION OF THE INDUCEMENT RESOLUTION, IT IS THE RESPONDENT'S RESPONSIBILITY TO PROCEED WITH REASONABLE DISPATCH TO COMPLETE THE BOND FINANCING PROCESS IN A TIMELY MANNER, INCLUDING, BUT NOT LIMITED TO, THE PAYMENT OF ANY FEE DEPOSITED AND THE PROVISION OF REQUIRED INFORMATION, DOCUMENTS, ETC. NECESSARY TO PROCEED.

See Appendix B for a detailed discussion of these items:

- I. Subsequent filing requirement, public hearings and document preparation
- II. Final Approval and Closing
- III. Sale of Bonds
- IV. Fees and Other Costs
- V. Miscellaneous

APPENDIX A

Scoring Criteria

Experience and Qualifications

- A. The lowest total construction cost per unit of a proposed housing development that meets the specifications in the Request for Proposal (RFP).
 - 20 points – lowest per unit construction cost
 - 15 points – next lowest per unit construction cost
 - 10 points – next lowest per unit construction cost
 - 5 points – next lowest per unit construction cost
 - 0 points – next lowest per unit construction cost

- B. The proposed unit rents meet or exceed the low-rent requirements in the RFP.
 - 20 points – meets rent requirements
 - 0 points – does not meet rent requirements

- C. The proposal meets the low-income set aside requirements in the RFP for the proposed housing development.
 - 20 points – meets preferred low-income set aside requirements
 - 10 points – meets minimum low-income set aside requirements
 - 0 points – does not meet minimum low-income set aside requirements

- D. The proposal demonstrates the experience and qualifications of the Respondent and team members, as evidenced by the completion of multifamily housing rental developments using bond financing and Low Income Housing Tax Credits (LIHTC).
 - 20 points – 4+ multifamily developments completed using bond financing **and** LIHTC
 - 15 points – 1-3 multifamily developments completed using bond financing **and** LIHTC
 - 10 points – 4+ multifamily developments completed using bond financing **or** LIHTC
 - 5 points – 1-3 multifamily developments completed using bond financing **or** LIHTC
 - 0 points – no multifamily developments completed using bond financing **or** LIHTC

- E. Experience in the development of similar projects, such as senior, mixed income, large family, or other type of project specified by the RFP for a particular population.
 - 15 points – 4+ multifamily projects completed for the specific population
 - 10 points – 1-3 multifamily projects completed for the specific population
 - 0 points – 0 multifamily projects completed for the specific population

- F. Experience working on affordable housing developments with cities or other local government entities, as evidenced by the receipt of HOME funds, CDBG funds, PHA funds, real estate, or some other substantial contribution from the local gov't entity.
 - 10 points – 4+ multifamily projects completed with the participation of a local gov't entity
 - 5 points – 1-3 multifamily projects completed with the participation of a local gov't entity
 - 0 points – 0 multifamily projects completed with the participation of a local gov't entity

- G. The reasonableness of the fees and the timing of receipt of such fees for the various development team members, as compared to other submissions and/or similar projects.
15 points – lowest and most deferred fee structure
10 points – next lowest and most deferred fee structure
0 points – next lowest and most deferred fee structure
- H. The development team provides for Historically Underutilized Business (HUB) participation.
5 points – HUB participation
0 points – no HUB participation
- I. The feasibility of the proposal has been established, as evidenced by the financial structure and the development and operating cost assumptions.
10 points – feasible financial structure established
0 points – feasible financial structure not established
- J. The financial capacity of the Respondent has been established, as evidenced by an absence of any negative audit findings (that have not been explained to the Corporation's satisfaction) and a financial net worth that would be sufficient to provide the necessary resources to construct, operate, and manage the Development.
10 points – financial capacity of the Respondent established
0 points – financial capacity of the Respondent not established
- K. The financial participation of other entities, specifically, the lowest proposed cash contribution by TSAHC and/or the local government entity relative to other submissions.
10 points – lowest amount of financial assistance proposed
5 points – next lowest amount of financial assistance proposed
0 points – next lowest amount of financial assistance proposed
- L. A strong pro-forma, as evidenced by a high debt service coverage ratio as compared to other submissions.
10 points – highest debt service coverage ratio
5 points – next highest debt service coverage ratio
0 points – next highest debt service coverage ratio

APPENDIX B

I. Subsequent Filing Requirements, Public Hearings and Document Preparation

1. Subsequent Filing Requirements. Prior to review of the Response for final approval by the Corporation, and prior to review by the Texas Bond Review Board, the Respondent may file such additional documents or statements in support thereof as the Respondent shall consider relevant and appropriate and shall file the following:

(a) such additional information as is requested by the Corporation, the Financial Advisor, or Bond Counsel;

(b) a pro forma copy of any official statement, prospectus, or other offering memoranda, through the use of which the proposed obligations are to be offered, sold, or placed with any lender, purchaser, or investor, which offering, sale, or placement material shall contain prominent disclosure substantially to the effect that:

(i) neither the Corporation nor the State has undertaken to review or has assumed any responsibility for the matters contained therein except solely as to matters relating to the Corporation and to a description of the obligations being offered thereby;

(ii) all findings and determinations by the Corporation and the State, respectively, are and have been made by each for its own internal uses and purposes in performing its duties under the legislation enabling the Corporation and these Regulations;

(iii) notwithstanding its approval of the obligations and the Development, neither the State, nor the Corporation endorses or in any manner, directly or indirectly, guarantees or promises to pay such obligations from any source of funds of either or guarantees, warrants, or endorses the creditworthiness or credit standing of the Respondent or of any guarantor of such obligations, or in any manner guarantees, warrants, or endorses the investment quality or value of such obligations; and

(iv) such obligations are payable solely from funds and secured solely by property furnished and to be furnished and provided by the Respondent and any guarantor and are not in any manner payable wholly or partially from any funds or properties otherwise belonging to the Corporation or the State.

2. Public Hearings and Meetings. The Corporation is required to hold certain public hearings and meetings prior to final approval by the Corporation's Board and by the Texas Bond Review Board. With respect to the public hearing required by the Tax Equity and Fiscal Responsibility Act ("TEFRA") required by federal tax law (the "TEFRA Hearing"), the Corporation is required to hold such hearing in the jurisdiction in which the Development is to be located. With respect to the TEFRA hearing(s), the Corporation must publish notice in the *Texas Register* and the local newspapers of general circulation in the participating jurisdictions at least seven (7) days and twenty-one (21) days prior to the public hearing. The *Texas Register* is published only on Fridays and such notice must be provided to the *Texas Register* no later than noon on the Wednesday which is 10 days preceding the Friday in which the publication is requested. **The *Texas Register* provides no exceptions to this deadline.** Accordingly, the

Corporation will require the Respondent to provide an appropriate location, date and time for TEFRA hearings as approved by the Corporation and transmit this information to the Corporation at least 7 days prior to the date notice is required to be published in the *Texas Register*. The TEFRA Hearing may not be held (and notice of such Hearing may not be published) prior to the date a Development is induced by the Corporation; provided, however, that such hearings may be scheduled and publication of notice of such hearings may be provided for prior to inducement as long as (a) the Corporation's staff determines that such action is appropriate, (b) the hearing and publication of notice do not actually occur until after inducement by the Corporation and (c) the Borrower provides the deposit to the Corporation set forth in Section IV.A.1. (d) below.

The Corporation must also provide notice of the TEFRA hearing(s) to certain members of the Texas Legislature, local public libraries, homeowners' associations or other recognized neighborhood organizations or groups for neighborhoods within a one mile radius of the Development(s), county and city officials, residents of the Development(s) (for all Developments that do not involve new construction) and other interested parties designated by the Corporation. The Corporation will not publish notice of a public hearing until it has received from the Respondent:

- (a) the names and addresses of any affected homeowners' associations,
and
- (b) the names of the state legislators, the city council members and the county commissioners in whose district or precinct (as applicable) the Development(s) are located.

THE INFORMATION REQUIRED BY THE CORPORATION TO GIVE NOTICE OF THE TEFRA HEARING IS AVAILABLE FROM THE CORPORATION. A HEARING INFORMATION FORM MUST BE RETURNED TO THE CORPORATION AT LEAST 7 DAYS PRIOR TO THE DATE NOTICE MUST BE PROVIDED TO THE TEXAS REGISTER. FAILURE TO TIMELY PROVIDE THIS INFORMATION TO THE CORPORATION MAY RESULT IN A DELAY IN PUBLIC NOTICE AND ACCORDINGLY, A DELAY IN THE CLOSING OF THE DEVELOPMENT.

3. Bond Review Board Approval. Obligations issued by the Corporation are subject to approval by the Texas Bond Review Board (the "BRB"). BRB rules provide an exemption from the formal approval process for Texas State Affordable Housing Corporation Multifamily conduit transactions unless such transactions involve an ad valorem tax reduction or exemption. No ad valorem tax exemption or reduction is expected to be requested with respect to the Development; therefore, the formal BRB approval process should not be required. However, if one or more BRB members request it, the formal BRB approval process must be followed. If so, representatives of the Respondent are expected to attend the BRB planning session and the BRB meeting at which the Development will be considered for approval. In addition, additional information may be requested by BRB members and the Respondent's cooperation in providing this information is required.

If the formal BRB approval process is required, the Corporation with the assistance of its Bond Counsel, will prepare and file the notice of intent and the BRB Application for the Development. The Corporation will file the notice of intent and the BRB Application with the BRB only if it has timely received all required information and documentation for the completion of the BRB Application from the Respondent and/or its consultants.

4. Document Preparation. Bond Counsel shall have the primary responsibility for the preparation of the legal instruments and documents to be utilized in connection with the financing of the Development by the Corporation. No bonds or other obligations will be sold or delivered unless the legality and validity thereof have been approved by Bond Counsel. The Respondent and its legal counsel

shall cooperate fully with Bond Counsel, the Financial Advisor, the Issuer's Counsel and the Corporation's agents in the preparation of such materials.

5. Material Changes to Financing Structure. Any and all material proposed changes to the financing structure, ownership of the Development, or scope or materials of or for the proposed Development, from that set forth in the Response must be disclosed to the Corporation immediately in writing and approved by the Corporation.

In the event that the Development does not close within the time frame established by the Corporation, the Corporation reserves the right to terminate its participation in the financing. See Section V.B. below.

II. Final Approval and Closing

1. Final Approval by the Corporation. The Board will consider final action on the Response after the completion of the public hearings and for recommendation by the Corporation's staff. If approved, the Board shall adopt a resolution, in such form as is recommended by Bond Counsel, authorizing the issuance of obligations to provide financing for the Development. Final approval will be granted only upon:

(a) receipt by the Board of evidence satisfactory to it that the Respondent has complied in all material respects with these Regulations not otherwise waived by the Board; and

(b) an affirmative determination of the Board that:

(i) all requirements for and prerequisites to final approval under these Regulations have either been satisfied or waived and are in form and substance satisfactory to the Board; and

(ii) the operation of the Development(s) will constitute a lawful activity, is qualified for approval by the State, complies with and promotes the purposes of the Corporation and satisfies the requirements of the Corporation.

2. Closing of the Development. Following the public hearing(s) and final approval by the Corporation and the BRB (if necessary), the Corporation will proceed to close the financing in accordance with the documents approved by the Corporation and when finally approved by the Texas Attorney General and Bond Counsel in accordance with the terms of the sale or placement.

III. Sale of Bonds

A. Structure of the Development. There are a variety of bond financing structures and credit enhancements that may be utilized by the Respondent such as letters of credit, mortgage insurance and surety bonds. Prospective Respondents are encouraged to contact the Corporation's Financial Advisor for further information regarding financing structures prior to submission of a Response. The Respondent is required to execute an agreement awarding the sale of the Corporation's obligations to an underwriter or to an institutional purchaser through a private placement which obligates the Respondent to the payment of the costs of issuing such obligations as more fully described herein.

B. Environmental Review. Prior to the sale of the obligations, the Respondent will be required to conduct a Phase I environmental audit by an engineering firm acceptable to the

Corporation. At bond closing, the Respondent will be required to provide an environmental indemnity in the form to be provided by Bond Counsel.

C. Public Sale Requirements.

1. If the obligations are to be publicly sold, whether by competitive bid or negotiated sale, the bond issue must be structured so as to receive an investment grade rating of “BBB-” or higher by a nationally recognized rating agency acceptable to the Corporation and its Financial Advisor. If a credit enhancement is being provided, obligations may be credit-enhanced by an institution that is acceptable to the Corporation and its Financial Advisor.

The Response must indicate the type and nature of the proposed credit enhancement or surety, and the name and telephone number of a contact person (if known at time of submission) at such institution.

2. Obligations with an investment grade rating of “AA” or higher may be in minimum denominations of \$5,000. For the Corporation to approve transactions that are rated “BBB-” or higher but less than “AA,” the obligations must be sold in minimum initial denominations of \$100,000 and \$5,000 thereafter.

D. Limited Offering Requirements. If the obligations do not have an investment grade rating of BBB- or higher, the Corporation will consider such obligations to be non-rated for purposes of this subsection D. The Corporation may require that the obligations be rated or permit, at its sole discretion, the issuance of the obligations without a rating. The Corporation requires that non-rated obligations be privately placed or offered on a limited basis with restrictions. In order for a non-rated transaction to be considered by the Corporation, the placement must comply with the following minimum requirements: (i) the sale must be made to a “qualified institutional buyer” as defined in Rule 144(a) of the Securities Act of 1933 (a “QIB”) or an “accredited investor” as defined in Regulation D under such act (an “Accredited Investor”) and cannot be an underwriting or purchase with an intent to resell any portion of the obligations, (ii) if they are sold to QIBs, the obligations must be issued in minimum denominations of not less than \$250,000, and if they are sold to Accredited Investors, the obligations must be issued in such higher minimum denomination as the Corporation may require, (iii) at such time as the bond financing is presented to the Corporation for final approval, the Respondent (or placement agent, if applicable) must (a) identify the Purchaser of the obligations and (b) provide a written commitment from the Purchaser in form and content customarily used by real estate lending institutions outlining the terms and conditions of such commitment to purchase the obligations, (c) the Purchaser must represent that it is in the business of originating or acquiring and owning for its account, tax-exempt bonds or mortgage loans on multifamily rental housing properties, (d) there shall be no offering statement of the Corporation, or when a placement agent is involved in the sale of the obligations, there may be a placement memorandum prepared by the agent for the Purchaser, and (e) the Corporation may require that one physical obligation be issued with a legend stating that the initial and any subsequent purchaser(s) of such bond shall be a QIB or an Accredited Investor, as applicable. In the case of a private placement transaction, the Respondent or placement agent, upon delivery of the obligations, shall provide the Corporation with an executed investment letter from the investor purchasing the obligations substantially to the effect that: (1) it is engaged in the business, among others, of investing in tax-exempt securities and is a QIB or an Accredited Investor, as applicable; (2) it has made an independent investigation into the financial position and business condition of the Respondent and therefore waives any right to receive such information; and (3) it has received copies of the financing documents pursuant to which such obligations are issued. A form of such investment letter will be provided by the Corporation.

Any variation to the requirements set forth above must be requested in writing by the Respondent and must be approved by the Corporation, and be acceptable to the Bond Counsel, Financial Advisor, and Issuer's Counsel.

IV. FEES AND OTHER COSTS.

The Respondent will be responsible for all fees and expenses in connection with all bonds issued on its behalf. Such expenses, where eligible under the Code, may be financed through bond proceeds and will be considered part of the obligations authorized for issuance by the Corporation. Federal tax law provides that only two (2%) percent of the proceeds of a tax exempt bond offering may be used to pay "costs of issuance." The Respondent commits to pay from other sources any costs of issuance not payable from tax-exempt bond proceeds. The following fees are payable at the times and in the amounts as described below. ***ALL FEES ARE NONREFUNDABLE, EXCEPT AS OTHERWISE PROVIDED HEREIN.***

A. Processing Fees, Closing Fees and Costs.

1. Processing Fees.

Following inducement, the Respondent shall make an initial deposit with the Corporation which shall be credited against fees and expenses incurred by Bond Counsel, the Financial Advisor and Issuer's Counsel in connection with the proposed financing. **Such deposit shall be \$35,000, which represents a \$20,000 deposit for Bond Counsel fees, a \$10,000 deposit for Financial Advisor's fees, and a \$5,000 deposit for Issuer's Counsel fees.** All fees and expenses incurred by Bond Counsel, the Financial Advisor and Issuer's Counsel in connection with the Respondent's transaction shall be deducted from such deposit whether or not the obligations are issued and the remaining balance, if any, shall be refunded to the Respondent.

2. Closing Fees. Concurrently with the closing of the financing, the Respondent shall pay or cause to be paid all fees and expenses in connection with the issuance of the obligations including, but not limited to, the following professional fees and other costs:

(a) all fees and expenses of Bond Counsel (to the extent such fees and expenses have not been covered by the above referenced deposit);

(b) all fees and expenses of the Financial Advisor (to the extent such fees and expenses have not been covered by the above-referenced deposit) or other consultants, for services rendered to the Corporation in connection with the Development or the issuance of the obligations;

(c) all fees and expenses of Issuer's Counsel (to the extent not covered by the above-referenced deposit);

(d) the actual amount of any closing or acceptance fees of any trustee for the obligations, any fees and premiums for casualty and title insurance, any security filing costs, any fees for placing the obligations, any fees and expenses of any compliance agent appointed in connection with the review of any property, any out-of-pocket expenses incurred by professionals acting on behalf of the Corporation, and any other costs and

expenses, including issuance expenses, relating to the obligations, their security, and the Development;

(e) a closing fee to the Corporation of \$0.40 per \$1,000 principal amount of obligations issued, with a minimum closing fee of \$5,000;

(f) a closing fee to the Texas Bond Review Board of \$1,000 or 0.025% of the principal amount of the bonds certified as provided by §1372.039(a)(1), Government Code, whichever is greater.

3. Financial Advisory Fees. The fee to be paid to the Corporation's Financial Advisor shall be 1) for the first \$15,000,000 of bond principal, the fee shall be \$10,000 plus \$2.00/\$1,000 of the principal amount of debt issued with a minimum fee of \$20,000 (unless otherwise agreed to by the Corporation's Financial Advisor) and 2) for amounts above \$15,000,000 the fee shall be reduced to \$1/1000 for that amount over \$15,000,000. In addition, the Corporation's Financial Adviser shall also serve as the bidding agent for an additional fee with respect to all investment contracts to be entered into in connection with the investment of bond proceeds and revenues of the Developments.

4. Bond Counsel Fees. The fee to be paid to Bond Counsel shall be \$6.00/\$1,000 of the principal amount of debt issued for the first \$20,000,000 of the principal amount of debt issued, \$3.00/\$1,000 of the principal amount of debt issued for the next \$20,000,000 of the principal amount of debt issued, and \$0.75/\$1,000 of the principal amount of debt issued thereafter, with a minimum fee of \$75,000 (unless otherwise agreed to by Bond Counsel).

In addition to the fees paid to Bond Counsel, the Respondent will reimburse Bond Counsel for all out-of-pocket expenses incurred by Bond Counsel in connection with the Development. Such expenses include amounts incurred by Bond Counsel in connection with the TEFRA Hearings and preparation of notice thereof and the preparation and filing of the BRB Application.

5. Issuer's Counsel Fees. The fee to be paid to Issuer's Counsel shall be \$1.00/\$1,000 of the principal amount of debt issued for the first \$20,000,000, \$0.75/\$1,000 of the principal amount of debt issued for the next \$20,000,000, and \$0.50/\$1,000 of the principal amount of debt issued thereafter, with a minimum fee of \$10,000 (unless otherwise agreed to by Issuer's Counsel.) In addition to the fees paid to Issuer's Counsel, the Respondent will reimburse Issuer's Counsel for all out-of-pocket expenses incurred by Issuer's Counsel in connection with the Development.

6. Administrative Fee. Until the final maturity of the obligations, the Respondent will pay an Administrative Fee, remitted through the respective bond trustee to the Corporation on such basis as designated by the Corporation, in an amount equal to ten (10) basis points annually of the aggregate principal amount of the obligations outstanding, with a minimum annual fee of \$5,000. The Administrative Fee is exclusive of the trustee's fee, compliance agent fee, rebate analysts' fee, asset-oversight management fee (if required), audit fee, independent analyst fee, and any other costs or extraordinary costs as permitted under the respective bond documents. Payment of the Administrative Fee is to be covered by the bond credit enhancement and/or secured under the first mortgage on the property assigned to the bond trustee. The Corporation may require the payment of the Administrative Fee to be guaranteed by the Development owner and/or general partner(s).

7. Trustee's Fees. The Respondent shall select a bond trustee from a list of bond trustees approved by the Corporation to administer the funds and accounts pursuant to the trust indenture between the Corporation and the trustee bank. All trustee fees and expenses, including fees of trustee's counsel, shall be approved by the Corporation, and will be paid by the Respondent.

8. Auditor's Fees. The Corporation may at any time over the life of the project appoint an auditor to review the financial transactions under the bond documents, the compliance agent, and a rebate analyst to perform an analysis of rebate requirements with respect to the issue. Such fees and costs shall be paid by the Respondent.

B. Continuing Costs.

Each Respondent shall pay to the Corporation, in the manner described in the Development documents, the following amounts:

1. An annual asset oversight fee equal to \$25 per unit for the Development (as such fee may be adjusted in accordance with the Asset Oversight Agreement),

2. An annual compliance fee equal to \$20 per unit for the Development (as such fee may be adjusted in accordance with the Compliance Agreement),

3. Any amounts payable pursuant to any indemnity contract or agreement executed in connection with any financing of the Corporation completed as herein contemplated, and

4. The amount allocable to each Respondent (whose financing has been completed) of costs and expenses incurred by the Corporation in the administration of the indemnity contract or agreement, any program established in connection with the financing of a Development, and any obligations of the Corporation, including an annual accounting and/or audit of the financial records and affairs of the Corporation. The amount of costs or expenses paid or incurred by the Corporation under this clause shall be divided and allocated equally among all Respondents whose financings have been completed.

C. Changes in Fees. The Corporation reserves the right at any time to change, increase or reduce the fees payable under these Regulations. All fees imposed subsequent to closing by the Corporation under these Regulations will be imposed in such amounts as will provide funds, as nearly as may be practical, equal to that amount necessary to pay the administrative costs of conducting the business and affairs of the Corporation, plus reasonable reserves therefore.

D. Failure to Timely Pay Fees and Costs. The Corporation will not consider submissions for future transactions proposed by Respondents who are delinquent in the payment of any fees described in this Section IV.

V. MISCELLANEOUS.

A. Unauthorized Representations and Bond Marketing Practices.

1. Required Approvals. No Respondent, or any representative of any Respondent or the Corporation, shall represent, directly or indirectly, to any lender (interim or otherwise) supplier, contractor, or other person, firm, or entity that the Corporation has agreed or is firmly committed to issue any obligations in relation to any Development or Response until the Board has given final approvals for the issuance thereof under these Regulations, and then subject to the governmental approvals required by

these Regulations and the approval of the Attorney General of the State of Texas, the approval of Bond Counsel and subject to any requirements imposed by the Corporation's Articles of Incorporation.

2. Offering Statement. No Respondent, or any representative of the Respondent or the Corporation, shall ever make any representation, directly or indirectly, express or implied, of any fact contrary to the disclosures required to be made by paragraph II.C.1.(b) of these Regulations (regarding an offering statement, prospectus or other offering memoranda).

3. Registration. Neither the Respondent nor any securities firm, underwriter, broker, dealer, salesman, or other person, firm, or entity shall offer, sell, distribute, or place any obligations authorized by the Corporation by any process, method, or technique or in any manner, transaction, or circumstances or to any person or persons, the effect of which would be to require such obligations to be registered or would require filings to be made with regard thereto under the laws of the state or jurisdiction where such offer, sale, distribution, or placement is made without first registering the same or making the filings regarding the same required by such laws.

B. Failure to Comply with these Regulations. The Corporation will not consider submissions from Respondents for a potential Development if the Respondent is a borrower (or a related party thereto) in connection with obligations previously issued by the Corporation and such borrower (or related party) is not in compliance with the requirements set forth in these Regulations or is delinquent in the payment of any fees or costs set forth in these Regulations with respect to such prior issued obligations of the Corporation.

C. OTHER REQUIREMENTS. THE CORPORATION MAY IMPOSE ADDITIONAL OR DIFFERENT REQUIREMENTS ON A RESPONDENT THAN THOSE PROVIDED IN THESE REGULATIONS IN THE EVENT THAT THESE ADDITIONAL OR DIFFERENT REQUIREMENTS BECOME NECESSARY TO PROVIDE THE BEST OPPORTUNITY FOR APPROVAL BY THE CORPORATION'S BOARD OF DIRECTORS AND/OR THE TEXAS BOND REVIEW BOARD.