

## **Amended Guidelines for the Texas State Affordable Housing Corporation 2006 Private Activity Bond Program**

### **INTRODUCTION**

The Texas State Affordable Housing Corporation (the “Corporation”) will be soliciting proposals for multifamily housing properties seeking to use private activity bond cap in the calendar year 2006. All potential Respondents (“Respondents”) are urged to submit complete proposals as early during the acceptance period as possible to ensure adequate review time.

**Background** – Private activity bonds to finance qualified residential rental facilities are subject to the limitations imposed by federal and state regulations pertaining to private activity bond cap (“volume cap”). In the 78<sup>th</sup> Regular Session (2003), the Texas Legislature passed S.B. 284, which, among other purposes, awarded 10 percent (10%) of the State’s multifamily volume cap to the Corporation. For 2006, that amount is estimated to be approximately \$40 million.

Although volume cap is limited, the Corporation encourages proposals from developers of new and existing multifamily properties and will use its best efforts to provide bond financing to as many qualified properties as reasonably feasible in target areas identified by the Corporation. A Request for Proposals (“RFP”) procedure has been designed to establish a process for inviting, evaluating, and selecting qualified tax exempt residential rental facilities seeking allocations of volume cap in 2006.

### **PROGRAM OUTLINE**

**Research and Identification of Targeted Areas**– The Corporation’s Board of Directors (“Board”) will identify specific areas of housing need across the state where the allocations will be targeted. The Corporation must be able to identify specific affordable housing needs and verify local community support for any potential affordable housing development. This will be achieved by:

1. Coordinating with the Texas Department of Housing and Community Affairs (“TDHCA”) and other state and federal agencies and reviewing relevant needs assessment;
2. Soliciting information regarding housing needs from local and regional housing organizations;
3. Researching information on a statewide and national level to identify affordable housing trends and solutions to meeting the needs of targeted areas in Texas;
4. Consulting with the appropriate local political entities and their representatives (e.g. city council, mayor, county commissioner, county judge, etc.);
5. Meeting with experienced affordable housing developers in the state and recognized professionals in the industry to determine target areas of housing need in their areas of expertise

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The Corporation may also specify the most appropriate development characteristics for each targeted area. This may include, but is not limited to, income levels, special needs population served, project amenities, and social services.

**Request for Proposals** – Once the Corporation has identified targeted areas of housing need and development characteristics, an RFP will be issued for each targeted area. The required development characteristics, or technical specifications, and submission deadline for each targeted area will be set forth in its respective RFP. RFP’s may be issued at different times during the year with the last response deadline being no later than April 1, 2006.

**Evaluation and Allocation** – The Corporation will accept proposals in response to the RFPs during a specified submission period. Each proposal will be evaluated and scored, with the highest ranking proposals being presented to the Corporation’s Board for approval. There is no assurance that the Corporation will select a proposal in each targeted area, even if the Corporation receives proposals for housing developments in each targeted area. The Corporation may approve more than one proposal in a particular targeted area. If there is more than one RFP issued by the Corporation, the available amount of PAB allocation will initially be divided equally among each RFP. If one targeted area is oversubscribed a waiting list will be determined based upon highest score. After the final RFP submission deadline, if no responses have been received or the recommended amount of allocation does not use all the money in that specific RFP, the Corporation will reallocate any remaining funds to the next highest scoring response in any of the targeted areas of need. This may result in a disproportionate amount of funds being allocated in one area depending upon RFP response.

#### **PROGRAM DEADLINES**

Time deadlines (as and if amended) for the proposal evaluation and selection process will be strictly adhered to by the Corporation. Respondents are advised to evaluate their financing goals and development preparedness **prior to** applying for private activity bond volume cap. The Corporation will reject proposals not meeting the minimum technical specifications or otherwise failing to evidence an ability to meet each of the deadlines set forth below. **The current schedule for the process is shown below. The Corporation may amend this schedule by posting the revised schedule on its website ([www.tsahc.org](http://www.tsahc.org)).**

August/October 2005	The Corporation’s Staff conducts research to determine specific areas of housing need.
September 2005	The Corporation’s Board publishes the 2006 PAB Guidelines for comment.
October 2005	The Corporation’s Board adopts the 2006 PAB Guidelines, designates the target areas for the 2006 program year and approves the issuance of RFP’s for each targeted area.
October 05/January 06	The Corporation issues RFP’s for specific targeted areas.

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January/April 2006	Proposals must be received by the Corporation according to the deadline set out in each respective RFP.
January/April 2006	Proposals are evaluated, scored, and ranked by the Corporation's Staff. High Scoring Respondents will be notified to appear at the Corporation's next scheduled Board meeting. Respondents with the highest ranking proposals make oral presentations to the Corporation's Board;
April 2006	Corporation selects Developments that it intends to fund in 2006 (if any), plus one (1) alternate for each targeted area (where possible).
April/May 2006	Respondents and Corporation conduct public hearings.
June 2006	Corporation provides public comment to the Board and requests inducement resolutions for the selected developments that it intends to fund in 2006.
July/August 2006	Corporation staff submits list of inducements to the Texas Bond Review Board.
August 15, 2006	Last date to procure volume cap from the Texas Bond Review Board; Texas Bond Review Board recaptures any unreserved allocations

Once the Corporation provides a preliminary allocation of volume cap for a housing development, the Respondent must work with the Corporation to issue bonds within the time frames set forth above and in Appendix B to the Corporation's RFP. Failure to finalize all aspects of development and bond financings within this time period and to submit all required pre-closing and closing documentation to the Corporation will result in recapture of the allocation. Respondents are advised to review funding sources, commitments and financing structures to ensure they can meet these deadlines for year 2006 submissions. In addition to meeting all requirements relating to private activity bonds set forth in the Internal Revenue Code, as amended, developments using federal Low Income Housing Tax Credits ("LIHTC") in their financing plan must also meet all requirements of Section 42 of the Code, as amended, the United States Fair Housing Act, and all applicable State of Texas laws pertaining to multifamily housing.

While the amount of volume cap available from the Corporation for multifamily developments is limited, the Corporation does encourage applications from multifamily developers and will use its best efforts to fund as many qualified projects as are reasonably feasible. Respondents are advised that the allocation of funds will be competitive and otherwise qualified developments may not receive funding due to the limited amount of available volume cap. Any and all costs incurred in this RFP process are the sole responsibility of the Respondent.

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**Fees charged by the Corporation and its financing team for review of applications are nonrefundable.**

Bond allocations made available under this program are limited to residential rental facilities that meet all relevant qualifications of the Code. Such facilities may involve the rehabilitation of existing rental facilities, new construction of facilities, modernization of public housing facilities, and construction of qualified 'assisted living' housing.

### **SUBMISSION OF PROPOSALS**

The following is a list of the information and documents that must be submitted to the Corporation with a proposal in response to one of the Corporation's Request for Proposals ("RFP"). Additional information will be required. This additional information will be specified in each respective RFP, and as may be required by the Corporation's Board of Directors, staff, Bond Counsel, or the Financial Advisor.

1. Title page & Application Form
2. Maps: A **location map** showing the location and approximate outline of the tracts involved along with the location of any and all amenities, for which the respondent is claiming points, which are located near the Development. To be eligible for points, amenities should be located within a one mile radius of a Development in urban/exurban areas and a two mile radius of the Development in rural areas. A **zoning map** showing the existing zoning of the property and surrounding areas, demonstrating that the Development, as proposed, is zoned for the intended use, or a letter indicating that a zoning change has been requested. Zoning must be approved for the Development within 45 days of receiving a reservation for allocation of bond cap.
  1. Site Control: 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 covering the time period that the application is under review or that has an "option to extend" clause covering the same time period.
  2. Audited financial statements of the Respondent for the last three years. 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.
  3. An estimated construction schedule. If rehabilitation is proposed, submit a physical condition assessment report ("PCA") completed on the property which confirms the cost of rehabilitation. The PCA must not be older than 6 months prior to the application date.

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4. Submit a market study showing the need in the area for rehabilitated affordable housing as proposed.
5. Photographs of the Development which identify the need for rehabilitation.
6. Evidence of local support for the Development from the City/County in the form of a resolution of support by the City Council (if the Development is within the city limits or extraterritorial jurisdiction of a municipality) or County Commissioner's Court. The resolution must clearly state that local officials support the Development as proposed. **(Proposals will not be scored or presented to the Board without this submission.)**
7. Provide an organizational chart of 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, the seller(s) of property, the underwriter or placement agent, and any other party related to the transaction.
8. Certifications:
  - a. Certification by the Respondent and Respondent's principal(s) that they are in good standing with the Corporation, TDHCA, and the City or County in which the Development is located. The certification should state that these principals do not have any outstanding compliance issues with the Corporation, TDHCA, or the City/County, and have not had any compliance issues in the last three years, or provide full disclosure of any problems and issues. As part of the evaluation process, the Corporation will request information from TDHCA's Compliance Division and review any internal compliance records on each principal of the Applicant.
  - b. 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.

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- c. 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.
  - d. 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.
  - e. If claiming points for providing a security or courtesy officer on site, the respondent must submit a certification stating that the proposal contains such a provision and a description of the budgeted line item that will compensate this expense.
9. If applicable, describe and provide supporting evidence (e.g., certification by a governmental agency) of the status as a Historically Underutilized Business (HUB), minority business enterprise (MBE) and/or women owned business enterprise (WBE), or, if applicable, describe the Respondent's or the general contractor's history of utilizing HUB's.
10. 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). *The submitted documents must support points claimed for this item under the scoring criteria.*
11. 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). *The submitted documents must support points claimed for this item under the scoring criteria.*
12. Financial Spreadsheets:
- a. **Rent/Expense Analysis** identifying the proposed rent structure and any components to this structure such as utility allowances and source, vacancy and

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collections loss and other exceptions to the rent and secondary income of the property. All operating expenses should be identified and included to determine the Net Operating Income of the property and financial ability to repay bonds in the amount required. For pooled transactions, information should be submitted for each property.

- b. **Development Cost Schedule** identifying all anticipated Development costs associated with the transaction consistent with the Sources and Uses of Funds report. For pooled transactions, information should be submitted for each property.
  - c. **30-year Operating Proforma** which substantiates that the Development will maintain a minimum debt coverage ratio of 1.10 over the 30 year period. Any deferred developer fee proposed in the transaction should be shown in the proforma as fully repayable within 10 years. For pooled transactions, information should be submitted for each property along with a combined proforma identifying the entire cross collateralized transaction.
  - d. **Sources and Uses of Funds Schedule** for the bond transaction that identifies 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.
  - e. **Operating Statements** for each property consisting of the previous twelve (12) consecutive months ending not more than three (3) months from the date of submission; the two most recent consecutive annual operating statement summaries; and a rent roll not more than six (6) months old at the time of response submission. (rehabilitation only)
13. A narrative of the financing plan which clearly identifies the amount of outside resources necessary to make the Development financially feasible, if applicable, 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.
14. Commitment letters from all financial entities (including rental assistance and grant funds) involved in the financing of the proposed development. Commitment letters should be consistent with the amount of funds on the sources and uses form. If applicable, provide verification of rental assistance in the form of an approved contract between the proposed ownership entity and the provider.
15. 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

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property name, the name of the legal owner of the property, the type of funding, and the city where the property is located.

16. A resident services plan which clearly identifies the resident services to be provided at the Development. The plan must state how services will be determined, who will be providing the services, transportation arrangements (if applicable), and available/proposed space to be used for the provision of resident services. *The narrative must support points claimed for these items under the scoring criteria.*
17. The TDHCA QAP requires all Developments to meet the standard statewide energy code adopted by the State Energy Conservation Office. Beginning September 1<sup>st</sup> 2005, two new energy code notices will be in effect: IECC (International Energy Conservation Code) -2003 and ASHRAE (American Society of Heating, Refrigerating and Air Conditioning Engineers) 90.1-2004; also known as the "Texas Standard". Under this program, minimum requirements are set for energy efficient design and major renovation projects so that they may be constructed, operated and maintained in a manner that minimizes the use of energy without constraining the building function or the comfort of the occupants. The Corporation promotes the use of energy efficiency in multi-family housing developments by providing a point based incentive for exceeding the Texas Standard. Therefore, if the Development is proposing specific items to promote energy efficiency which exceed the Texas Standard as outlined by the State Energy Conservation Office, the proposal must contain a narrative of the energy efficiency methods proposed and describe how these compare to and exceed the minimum standard. All energy efficiency features identified should be consistent with line item expenses identified in the development and/or operating budget. *Information in this section must support points claimed for these items under the scoring criteria*
18. A copy of the tax credit application to the Texas Department of Housing and Community Affairs, as soon as it is submitted.

### **PROPOSAL EVALUATION AND SELECTION PROCESS**

Upon compliance with the response requirements set forth in the RFP, the Corporation will conduct a preliminary review of all Responses. If all of the Response requirements are met and the proposed Development meets the Corporation's purposes and guidelines, the Development will be scored by the Corporation in accordance with the criteria identified in Appendix A. The Applicant will be notified in writing of any deficiencies identified in the application and will be provided a timeframe to correct noted deficiencies. If the deficiencies are not corrected to the satisfaction of the Corporation within the allotted timeframe, the application will not be considered by the board for allocation and an alternate application will be underwritten.

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

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- 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 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 same Board meeting at which oral presentations are made, the Board may select Development(s) and alternate Developments based on the final scores of the Responses. **The Corporation reserves the right not to approve any Responses, even one that 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. After the Developments are chosen, the Corporation, in coordination with the Respondent(s), will hold the required TEFRA hearings.

At the Board's next meeting following the TEFRA hearing for a Development, 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 and the public comment at the TEFRA hearings shows sufficient support for the Development. In order for the Board 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 the RFP and the requirements set forth in Appendix C; 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.

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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.**