



## HOUSING FINANCE POLICY

Amended 10-28-14

### I. OVERVIEW

The Dakota County Community Development Agency (the CDA) is committed to assisting in the financing of affordable rental housing for low to moderate income households. The CDA will consider assisting in the development, acquisition and substantial rehabilitation or acquisition and preservation of multifamily rental housing facilities using qualified residential rental bonds, qualified 501(c)(3) bonds, refunding bonds, low income housing tax credits, tax increment financing, and Housing Opportunities Enhancement (HOPE) funds.

Before the CDA will take any action in connection with the issuance of bonds or the establishment of a tax increment district, it must receive a completed Application for Revenue Bonds and/or Application for Tax Increment Financing Assistance, as applicable. The issuance of the various types of bonds, and the establishment of a tax increment financing district, will require compliance with the respective procedural requirements, including public approvals. Meeting these requirements generally takes between two to three months. The applicant will be required to pay all of the CDA's costs associated with processing an application for bonds or tax increment financing assistance, whether or not the application is ultimately approved, bonds are ultimately issued, or the tax increment financing district is ultimately established.

It is the CDA's policy to encourage the distribution of affordable housing throughout the county in order to avoid the concentration of such housing in any one city or section of a city. As a result, the CDA may limit the number of units and the units per acre of affordable housing that it will assist. In order to address the CDA's concern that each development will be well maintained throughout its useful life, the CDA will review the building plans and may require specific building materials, such as fiber cement board siding, to be used. To expand affordable housing opportunities for a range of household sizes, the CDA may require that the units designated as "affordable" within a mixed-income development be closely proportional to the number of units of each bedroom size within the development. The CDA considers the cities in Dakota County to be its clients, thus the city in which the development is proposed will be consulted.

**Please Note – The requirements specified herein are not inclusive of all of the requirements to be met in order to receive CDA financing. This information is to be used only as a general guide to the different CDA financing programs available.**

## II. QUALIFIED RESIDENTIAL RENTAL BONDS

The use of private activity bonds will be considered for either new construction or acquisition coupled with rehabilitation. The CDA receives an annual entitlement allocation of private activity bonding authority from the State of Minnesota. The CDA within its sole discretion will determine (a) whether it will use any of its entitlement allocation for multifamily bonds, and if so, (b) which multifamily project or projects it will finance.

If the CDA has used its entire entitlement allocation for the previous year, the CDA may apply to the State for an allocation of bonding authority to finance a multifamily project to be owned by a for-profit developer. An application to the State for additional bonding authority requires a non-refundable application fee of .02% of the requested allocation and, depending on when the application is submitted, a deposit of either one or two percent of the requested allocation. The developer will be responsible for providing such fee and deposit. In the event the CDA issues bonds that do not meet the definition of “permanently issued” within Minnesota Statutes 474A.02, Subd. 20a, then the CDA may hold some or all of the application deposit received from the Department of Finance (in lieu of returning it to the developer) until and unless the bonds are “permanently issued” within such definition.

In connection with the issuance of private activity bonds that receive an allocation of volume cap, the developer may be eligible for the 4% tax credit allocation. Please refer to the section on HOUSING TAX CREDITS. If the 4% tax credit is sought, the development will be subject to both income and rent restrictions imposed by federal and state law and will be subject to the separate application and other procedural requirements of the CDA’s tax credit program.

A. Under state law, projects financed with bond allocation must meet the following requirements:

(a) Income and rent restrictions:

(i) the proposed residential rental project meets the requirements of section 142(d) of the Internal Revenue Code regarding the incomes of the occupants of the housing (that is, 40% of the units are held for persons at 60% of median income, or 20% of the units are held for persons at 50% of median income); and;

(ii) the maximum rent for at least 20 percent of the units in the proposed residential rental project do not exceed the area fair market rent or exception fair market rents for existing housing, if applicable, as established by the federal Department of Housing and Urban Development.

(b) The proceeds from qualified residential rental bonds may be used for a project for which project-based federal rental assistance payments are made only if:

(i) the owner of the project enters into a binding agreement with the Minnesota Housing Finance Agency under which the owner is obligated to extend any existing low-income affordability restrictions and any contract or agreement for rental assistance payments for the maximum term permitted, including renewals thereof; and

(ii) the Minnesota Housing Finance Agency certifies that project reserves will be maintained at closing of the bond issue and budgeted in future years at the lesser of:

(I) the level described in Minnesota Rules, Part 49000.0010, subpart 7, item A, subitem (2), effective May 1, 1997; or

(II) the level of project reserves available prior to the bond issue, provided that additional money is available to accomplish repairs and replacements needed at the time of bond issue

B. 15 Year Agreement and Monitoring:

State law requires that prior to the issuance of tax-exempt residential rental bonds, the developer of the project must enter into a 15-year agreement with the CDA that specifies the maximum unit rental rates of the rent-restricted units and the income levels of the families occupying the rent-restricted units. The developer must annually certify to the CDA, during the 15-year term, that the rental rates are within the applicable limitations. The CDA may request individual certifications of income for all families.

State law requires that the CDA monitor compliance with the rent and income restrictions listed above. The CDA may issue an order of noncompliance if a project is determined to be out of compliance with the rental or income limitations set forth above. The owner of the project will be required to pay a penalty to the CDA equal to one-half of one percent of the total amount of bonds issued for the project if the CDA issues an order of noncompliance. For each additional year a project is out of compliance, the annual penalty must be increased by one-half of one percent of the total amount of bonds issued for the project.

C. Participation in the Section 8 Program:

The developer will be required to sign an agreement that while the bonds are outstanding, they will participate in the Section 8 Rental Assistance Program. Participation means that to the extent the developer has units that meet the requirements of this program, they will not exclude from consideration qualified families receiving assistance for the Section 8 program.

D. Acquisition/Substantial Rehabilitation Requirements:

If the developer intends to utilize the proceeds of tax-exempt bonds for acquisition and rehabilitation, the following requirements must be met:

(a) Rehabilitation expenditures must be made within a 2-year period and must be equal or exceed 15% of the acquiring the building finance with bond proceeds.

(b) No substantial user of the facility prior to acquisition may be a substantial user of the facility following acquisition.

E. Community Review:

All applications will be sent to the city in which the development is located for review and comment. Cities will be given a minimum of 30 days to review and submit comments. The CDA will not consider approving a final bond sale resolution before this period of time has elapsed or comments are received, whichever comes first.

The CDA will not approve any request for bonds where a community indicates that the development is not consistent with the community's plan, policies, or goals.

F. Fees

The following fees must be paid by the Applicant with respect to the Dakota County Community Development Agency (CDA) Multifamily Revenue Bond Programs:

(a) An application fee in the amount of \$1,000 must be submitted with the Multifamily Revenue Bond Application to the Dakota County CDA

(b) An administrative fee in the amount of the greater of \$10,000 or 1/8 of 1% (.125%) of the principal amount of the bonds shall be paid to the Dakota County CDA at the time of the bond sale closing.

(c) An annual administrative fee in the amount of 1/8 of 1% (.125%) of the outstanding principal balance of the bonds shall be paid to the Dakota County CDA in semiannual payments.

### **III. 501(c)(3) BONDS FOR RESIDENTIAL RENTAL HOUSING**

In order to qualify for 501(c)(3) bonds for residential rental projects, the developer must be a qualified 501(c)(3) organization, or a disregarded entity created by a 501(c)(3) organization, for purposes of federal tax law and all projects must be consistent with its 501(c)(3) charitable purposes. Proof of this status must be submitted with the application and an opinion of counsel acceptable to bond counsel will be required at closing. 501(c)(3) Bonds cannot be used in a partnership with for-profit ownership or be used for an activity that constitutes an unrelated trade or business of the 501(c)(3) organization.

A. Type of Units and Income/Rental Limitations:

While the CDA may impose additional income or rental restrictions on a case-by-case basis, under federal law, housing projects which consist of the construction of new housing units need not include any units set aside for persons of low or moderate income, except as may be required in order to maintain the developer's status as a 501(c)(3) organization.

Federal law also requires that existing housing projects which are to be acquired with the proceeds of 501(c)(3) bonds must comply with the rehabilitation requirements described in B. below, or must meet one of the following (elected at the date of the bond issue):

(a) set-aside 20% of the units for families whose income is 50% or less than the county area median income, adjusted by family size; or

(b) set-aside 40% of the units for families whose income is 60% or less than the county area median income, adjusted by family size; in each case in accordance with the requirements of Section 145(d) of the Internal Revenue Code.

**B. Rehabilitation Projects:**

Under federal law, an alternative to complying with the set-aside requirements described in A. above, a developer seeking to finance the acquisition of an existing housing project with 501(c)(3) bonds may substantially rehabilitate the project, as required by Section 145(d) of the Internal Revenue Code. "Substantial rehabilitation" requires, in essence, the expenditure for rehabilitation of an amount at least equal to the acquisition price of the project.

**C. Participation in the Section 8 Program:**

The developer will be required to sign an agreement that while the bonds are outstanding, it will participate in the Section 8 Rental Assistance Program. Participation means that to the extent the developer has units that meet the requirements of this program, they will not exclude from consideration qualified families receiving assistance for the Section 8 Program.

**D. Community Review:**

All applications will be sent to the city in which the development is located for review and comment. Cities will be given a minimum of 30 days to review and submit comments. The CDA will not consider approving a final bond sale resolution before this period of time has elapsed or comments are received whichever comes first.

The CDA will not approve requests for bonds where a community indicates that the development is not consistent with the community's plans, policies, or goals.

**E. Fees**

The following fees must be paid by the Applicant with respect to the Dakota County Community Development Agency (CDA) Multifamily Revenue Bond Programs:

- (a) An application fee in the amount of \$1,000 must be submitted with the Multifamily Revenue Bond Application to the Dakota County CDA
- (b) An administrative fee in the amount of the greater of \$10,000 or 1/8 of 1% (.125%) of the principal amount of the bonds shall be paid to the Dakota County CDA at the time of the bond sale closing.
- (c) An annual administrative fee in the amount of 1/8 of 1% (.125%) of the outstanding principal balance of the bonds shall be paid to the Dakota County CDA in semiannual payments.

#### **IV. REFUNDING BONDS**

The CDA will consider a developer's request that the CDA issue bonds to refund a developer's existing bond issue, or make amendments which constitutes a reissuance for purposes of federal tax law based on the following CDA policies and objectives.

##### **A. Requirements for Agreements and Terms of the Restrictions:**

Prior to issuance of refunding bonds, the developer of the project must enter into an agreement with the CDA that specifies the maximum unit rental rates and the income levels of tenants. (These limits will be based on the type of bonds being issued.) The CDA may request individual certifications of income for all tenants.

##### **B. Participation in the Section 8 Program:**

The developer will be required to sign a new agreement that while the bonds are outstanding, they will participate in the Section 8 Rental Assistance Program. Participation means that to the extent the developer has units that meet the requirements of this program, they will not exclude from consideration qualified families receiving assistance for the Section 8 program.

##### **C. Community Review:**

All applications will be sent to the city in which the development is located for review and comment. Cities will be given a minimum of 30 days to review and submit comments. The CDA will not consider approving a final bond sale resolution before this period of time has elapsed or comments are received, whichever comes first.

The CDA will not approve requests for refunding or reissuing bonds where a community indicates that the development is not consistent with the community's plan, policies, or goals. All 501(c)(3) bond requests require CDA Board and County Board of Commissioners' approval. The CDA will not commit to any 501(c)(3) Bond assistance until approvals have been granted.

##### **D. Fees**

The following fees must be paid by the Applicant with respect to the Dakota County Community Development Agency (CDA) Multifamily Revenue Bond Programs:

- (a) An application fee in the amount of \$1,000 must be submitted with the Multifamily Revenue Bond Application to the Dakota County CDA.
- (b) An administrative fee in the amount of the greater of \$10,000 or 1/8 of 1% (.125%) of the principal amount of the bonds shall be paid to the Dakota County CDA at the time of the bond sale closing.
- (c) An annual administrative fee in the amount of 1/8 of 1% (.125%) of the outstanding principal balance of the bonds shall be paid to the Dakota County CDA in semiannual payments.

#### **V. GENERAL REQUIREMENTS.**

The following requirements apply in connection with the issuance by the Dakota County CDA of Qualified Residential Rental Bonds, Qualified 501(c)(3) Bonds and Refunding Bonds.

- (a) The Applicant shall submit to the Dakota County CDA its written proposal for selection of one or more investment bankers or underwriters to assist the Applicant and Dakota County CDA in the structuring, implementation and sale of the bonds. Such proposed selection shall not become effective, nor shall the Applicant enter into any binding agreement or commitment with respect thereto, until and unless the Dakota County CDA approves such selection; and the Dakota County CDA may disapprove such selection in its sole discretion. If the Applicant proposes that the bonds shall be privately placed with a financial institution, the Applicant may propose that no investment bankers or underwriters will be selected.
- (b) The Applicant acknowledges that the Dakota County CDA will appoint the trustee in connection with the issuance of the bonds.
- (c) The Applicant acknowledges that the Dakota County CDA will appoint bond counsel in connection with the issuance of the Bonds.
- (d) The Applicant, and if the applicant is a single asset entity, other parties required by the Dakota County CDA, will be required to enter into a memorandum of understanding on terms acceptable to the Dakota County CDA prior to the adoption of approving resolutions by the Dakota County CDA.

#### **VI. LOW-INCOME HOUSING TAX CREDITS (HTC)**

The CDA has been designated as an allocating agency for HTC by the state legislature. Federal law requires the CDA to adopt a Qualified Allocation Plan, which explains the guidelines and methods for allocating tax credits. Allocations of HTC will be

made in accordance with the Qualified Allocation Plan's threshold requirements and then ranked based on selection criteria. The CDA will consider allocating HTC for new construction, acquisition, or rehabilitation, in accordance with its Qualified Allocation Plan. HTC Applications are due annually on a date selected by the Minnesota Housing Finance Agency as the closing date for its first round allocation for the subsequent year's tax credit allocation.

## **VII. TAX INCREMENT FINANCING (TIF) FOR RENTAL HOUSING**

The use of TIF will be considered for either new construction or rehabilitation of rental housing. The TIF provided will primarily be in the form of an Interest Rate Reduction Program (IRR). The CDA may consider other forms of TIF financing depending upon the specific needs of the development.

A. Consistent with the Dakota County Tax Increment Financing Policy, the CDA policy requires that the proposed housing district meet all of the requirements for a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1992, regardless of whether the project actually receives a low-income housing credit.

(a) (i) 20-50 test-The project meets the requirements if 20 percent or more of the residential units in the project have rents that are at or below the published Sec. 42 maximum gross rent, adjusted by bedroom size, for 50 percent of the area median income, and these units are occupied by households whose income is 50 percent or less of area median gross income, or

(ii) 40-60 test- The project meets the requirements if 40 percent or more of the residential units in the project have rents that are at or below the published Sec. 42 maximum gross rent, adjusted by bedroom size, for 60 percent of the area median income, and these units are occupied by households whose income is 60 percent or less of area median gross income.

(b) Annual rent increases will be limited to the lesser of published Sec. 42 rents or the average rent increase in the proposed City as demonstrated in the Dakota County CDA Annual Market Study.

B. Generally, TIF Assistance provided will be in the form of an Interest Rate Reduction Program (Minnesota Statutes 1998, 469.012 subd. 8) with the following additional restrictions:

(a) Maximum of 15 years of increment payments

(c) Generally, TIF Assistance will not exceed 70% of increment available (subject to underwriting)



(d) Interest rate reduction payments must only be utilized to pay interest on project financing

C. Repayment Terms: (Per loan agreement)

D. Participation in the Section 8 Program:

The developer will be required to sign an agreement that states that while the agreement is outstanding, they will participate in the Section 8 Rental Assistance Program. Participation means that to the extent the developer has units that meet the requirements of this program, they will not exclude from consideration qualified families receiving assistance for the Section 8 Program.

E. Community Review:

All applications will be sent to the city in which the development is located for review and consideration of support. Cities will be given a minimum of 30 days to review and submit comment. The CDA will not consider private TIF requests unless a resolution is passed by the respective city council authorizing the use of TIF and requesting the CDA to proceed with the development of a TIF District. The CDA will not approve TIF requests where the community indicates that the development is not consistent with the community's plan, policies, or goals.

TIF requests initiated by the CDA require review and approval by the Dakota County Board of Commissioners. All TIF requests require CDA Board and County Board of Commissioners' approval. The CDA will not commit to any TIF assistance until approvals have been granted.

F. "But For" Determination:

The developer requesting assistance must provide financial information on the development that clearly demonstrates that "but for" the use of TIF the development would not occur. The CDA will also conduct its own independent analysis to verify whether the "but for" determination has been met, which will include comparing cash flow proformas with and without rent-restricted units. In most cases, the amount of TIF available will not exceed the amount of funding necessary to write down rents from market rate to affordable levels.

G. Fees

The following fees must be paid by the Applicant with respect to the Dakota County Community Development Agency (CDA) tax increment program:

(a) An application fee in the amount of \$1,000 must be submitted with the Application for Tax Increment Financing Assistance to the Dakota County CDA

- (b) The CDA will require a deposit in the amount of \$15,000 from the applicant to cover legal and consultant costs incurred by the CDA in investigating the feasibility of providing assistance to the applicant and other costs associated with establishing the district. If the CDA incurs additional expenses beyond the \$15,000, the CDA shall notify the applicant in writing and the applicant will be required to deposit additional funds in \$5,000 increments. Any excess funds in escrow will be returned to the developer once the TIF district is certified by the County.

## **VIII. TAX INCREMENT FINANCING (TIF) FOR OWNER-OCCUPIED HOUSING**

The CDA will consider the use of TIF for either new construction, acquisition, or acquisition/rehabilitation of owner occupied housing.

### **A. Income and Sale Price Limitations:**

(a) For owner occupied residential property to qualify for tax increment financing assistance, the proposed project must meet the following requirements:

(i) The statutory requirement that at least 95 percent of the housing units assisted with tax increment must be initially purchased and occupied by individuals whose family income is less than or equal to the income requirements for qualified mortgage bond projects under section 143(f) of the Internal Revenue Code: 115 percent of the area median income for household sizes of 3 or more, and 100 percent of the area median gross income for household sizes of 1 or 2.

(ii) In addition to (i) above, the project must meet the CDA policy requirement that at least 50 percent of the housing units in the project must be initially purchased and occupied by individuals or families with an annual adjusted gross income which is equal to or less than 80 percent of the area median gross income, as determined annually by the U.S. Department of Housing & Urban Development (HUD).

I. Income is determined based on Section 8 standards, whereby annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

II. The maximum sale price for the units referenced in (ii) above must not exceed the limit established by the CDA, on an annual basis, for its mortgage revenue bond program. The CDA

may adjust this sale price limit to ensure that these housing units are affordable to homebuyers that meet the income requirement.

B. Community Review:

All applications will be sent to the city in which the development is located for review and consideration of support. Cities will be given a minimum of 30 days to review and submit comment. The CDA will not consider private TIF requests unless a resolution is passed by the respective city council authorizing the use of TIF and requesting the CDA to proceed with the development of a TIF District. The CDA will not approve TIF requests where the community indicates that the development is not consistent with the community's plan, policies, or goals.

TIF requests initiated by the CDA require review and approval by the Dakota County Board of Commissioners. All TIF requests require CDA Board and County Board of Commissioners' approval. The CDA will not commit to any TIF assistance until approvals have been granted.

C. "But For" Determination:

The developer requesting assistance must provide financial information on the development that clearly demonstrates that "but for" the use of TIF the development would not occur. The CDA will also conduct its own independent analysis to verify whether the "but for" determination has been met.

D. Fees

The following fees must be paid by the Applicant with respect to the Dakota County Community Development Agency (CDA) tax increment program:

- (a) An application fee in the amount of \$1,000 must be submitted with the Application for Tax Increment Financing Assistance to the Dakota County CDA
- (b) The CDA will require a deposit in the amount of \$15,000 from the applicant to cover legal and consultant costs incurred by the CDA in investigating the feasibility of providing assistance to the applicant and other costs associated with establishing the district. If the CDA incurs additional expenses beyond the \$15,000, the CDA shall notify the applicant in writing and the applicant will be required to deposit additional funds in \$5,000 increments. Any excess funds in escrow will be returned to the developer once the TIF district is certified by the County.

**IX. HOUSING OPPORTUNITIES ENHANCEMENT (HOPE) FUND**

The Dakota County Board of Commissioners has designated the CDA as the administrator of HOPE funds. The CDA will consider allocating HOPE loans for new

construction/land acquisition, homeownership opportunities (indirect or direct assistance), and housing rehabilitation/acquisition/preservation. The CDA will accept applications on an open pipeline basis, depending on availability.

A. Types of Units, Incomes, and Rent Limitations:

The maximum loan amount available to projects serving the eligible population may not exceed \$30,000 per unit or a maximum of \$750,000 per project. Assisted rental units must serve persons at or below 50 percent of the county's median income as determined by HUD. Rental developments must have rents based upon the most current HUD AMI rent schedule for 50 percent, less applicable utility allowance. Assisted owner-occupied units must serve persons at or below 80 percent of the county's median income as determined by HUD. Owner-occupied development will be considered affordable based on the current purchase price limit for the Dakota County First Time Homebuyer program.

B. Monitoring Requirements:

The developer of a project must provide the CDA with a list of actual tenant rents and incomes and certify that the tenant rents and incomes are accurate and in compliance with the rent and income requirements at initial lease up and annually thereafter. Copies of reports submitted for the Tax Credit program, bond programs, or other approved financing program are acceptable. The project units must remain affordable pursuant to an established affordable housing program or if not funded by such other program, the units shall remain affordable for a period of not less than 15 years.

C. Participation in the Section 8 Program:

Developers of multifamily rental units will be required to sign an agreement that while the loan is outstanding, the development will participate in the Section 8 Rental Assistance Program. Participation means that to the extent the developer has units that meet the requirements of the HOPE program, they will not exclude from consideration qualified families receiving assistance for the Section 8 program.

D. Community Review:

All applications will be sent to the city in which the development is located for review and comment. Cities will be given a minimum of 30 days to review and submit comments. The CDA will not consider approving a loan agreement before this period of time has elapsed or comments are received whichever comes first. The CDA will not approve requests for loans where a city indicates that the development is not consistent with the city's plans, policies, or goals.

## X. APPLICATIONS & DOCUMENTS

The following documents are available on the CDA website: [www.dakotacda.org](http://www.dakotacda.org):

1. Application for Housing Opportunities Enhancement (HOPE) Program Funds
2. Application for Tax Increment Financing Assistance
3. Application for Multifamily Housing Revenue Bonds
4. Low-Income Housing Tax Credit Documents
  - CDA Qualified Allocation Plan (QAP) for Tax Credits
  - CDA Procedural Manual for Tax Credits
  - Tax Credit Application: Application submission requirements are found in the CDA Procedural Manual. The “Minnesota Multifamily Rental Housing Common Application” can be found at the Minnesota Housing’s website: **<http://www.mnhousing.gov>**. *Please note that the CDA’s submission requirements and self-scoring sheet are different from Minnesota Housing’s.*

## **X. CONTACT INFORMATION**

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