

NEW HAMPSHIRE HOUSING FINANCE AUTHORITY

Multi-Family Bond Financing Program Rules HFA 114

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NEW HAMPSHIRE HOUSING FINANCE AUTHORITY
Multi-Family Bond Financing Program Rules
HFA 114

HFA 114 PART ONE: Overview, Purpose, Applicability

HFA 114.01 Overview and Purpose

- (a) The Multi-Family Bond Financing Program provides an efficient source of funds for a variety of affordable multi-family rental developments. The Multi-Family Bond Financing Program enables the Authority to lend the proceeds from the sale of tax-exempt or taxable bonds for the construction, acquisition, rehabilitation, renovation, furnishing and equipping of multi-family rental housing developments.
- (b) The Multi-Family Bond Financing Program is intended for conduit multi-family bond financed projects where the Authority makes the mortgage loan and generally provides mortgage credit enhancement and/or other subordinate financial resources. See HFA 116 for rules with respect to other conduit multi-family bond financed projects.

HFA 114.02 Applicability

- (a) These rules only apply to the Multi-Family Bond Financing Program.
- (b) The provisions of HFA 101 are incorporated into these HFA 114 rules.
- (c) Projects intending to use Low Income Housing Tax Credits must comply with the LIHTC section of HFA 109.
- (d) All developments financed with tax-exempt bonds must meet Federal Tax Code requirements and additional Authority regulatory requirements with respect to project occupancy and income targeting. If any of these HFA 114 rules are inconsistent with the pertinent sections of the Federal Tax Code, the provisions of the Federal Tax Code shall govern.

HFA 114.03 Rulemaking

These Multi-Family Bond Financing Program Rules are generally adopted pursuant to RSA 204-C:9, which empowers the Authority to adopt rules relative to programs and operations.

HFA 114 PART TWO: Definitions

HFA 114.04 Definitions

In addition to the terms defined in HFA 101, the following words or terms shall have the following meanings in these HFA 114 Rules:

“Applicant” means an entity that is seeking the Authority’s approval to participate in the Multi-Family Bond Financing Program.

“Application” means the application form and all Authority required supporting documents.

“Complete Application” means an Application with all information and documents required by the Authority to participate in the Multi-Family Bond Financing Program.

“FHA” means the Federal Housing Administration.

“Findings” means a study conducted by the Authority pursuant to RSA 204-C:20.

“TEFRA” means the Tax Equity and Fiscal Responsibility Act of 1982 as amended.

HFA 114 PART THREE: General Rules

HFA 114.05 Eligible Applicants

All single asset mortgagors are eligible to apply including:

- (1) Non-profit 501(c)(3) corporations;
- (2) Limited partnerships;
- (3) General partnerships;
- (4) Corporations; and
- (5) Limited liability companies.

HFA 114.06 Project Eligibility

- (a) For purposes of eligibility for the Multi-Family Bond Financing Program, eligible projects must meet one of the following standards:
 - (1) At least 20% of units must be occupied by households at or below 50% AMI as adjusted for household size and published from time to time by HUD; or
 - (2) At least 40% of units must be occupied by households at or below 60% AMI as adjusted for household size and published from time to time by HUD.
- (b) Mixed income projects are encouraged but the Authority recognizes that many factors, including market conditions and scarce resource allocations will impact the relative mix of targeted and market rate units. The Authority, in its sole discretion, will evaluate projects on a case-by-case basis in accordance with the Authority's Findings.
- (c) In order to ensure affordability, the rent and utility cost for a Multi-Family Bond Financing Program-funded project may not exceed 30% of the maximum income for a particular eligibility category chosen.
- (d) In the event that targeted rents exceed the voucher payment standard for the area a minimum of 20% of the targeted units must be at or below the voucher payment standard for the area in order to ensure affordability to Housing Choice Voucher holders.
- (e) No project may deny occupancy to a tenant for any unit solely because that tenant is receiving Housing Choice Voucher rental assistance.
- (f) Rents and occupancy are restricted and the project must remain restricted for a period beginning on the first day on which 10% of the dwelling units in the project are first occupied and end on the later of:
 - (1) The date which is 15 years after the date on which 50% of the dwelling units in the project are occupied; or
 - (2) The first day on which no tax-exempt private activity bond issued with respect to the project is outstanding.
 - (3) The first day on which any project-based Section 8 assistance provided to the project terminates.

HFA 114.07 Fees and Costs

- (a) The Authority shall publish a list of applicable fees and the maximum amount allowed for each such fee.
- (b) The Authority, in its sole discretion, may waive any or all of the applicable fees.

HFA 114.08 Application Procedure

- (a) Applications for the Multi-Family Bond Financing Program will be accepted continuously. Applications must be submitted on an Authority provided form and will be accepted electronically. All accompanying documentation required by the Authority must be included. Incomplete Applications may be rejected by the Authority.
- (b) Complete Applications will be reviewed by the Authority for appropriateness of proposal and consistency with these rules. Each Complete Application will be reviewed under general criteria. Failure to comply with any of the general criteria may result in the rejection of the Complete Application. The general criteria are:
 - (1) Project location is feasible and appropriate;
 - (2) Project or design characteristics are appropriate for the neighborhood and satisfy market needs;
 - (3) Members of the development team demonstrate the necessary capacity and experience to successfully complete the project;
 - (4) Members of the development team, without exception, are not in default with any Authority program;
 - (5) Development costs including acquisition, construction, and intermediary expenses are reasonable as determined by the Authority; and
 - (6) Project is determined to be financially feasible by the Authority.
- (c) Within 45 days of receipt of a Complete Application, the Authority will make a determination to either reject the Complete Application or proceed with processing. The decision to proceed with processing is not an approval of the financing for the project.

- (d) If a project receives an initial determination to proceed, then a schedule of events will be developed to include, but not be limited to:
 - (1) An Official Intent Resolution (if necessary);
 - (2) TEFRA hearing;
 - (3) FHA Risk Sharing Insurance;
 - (4) Final Bond Resolution;
 - (5) Determination Letter;
 - (6) Real estate closing; and
 - (7) Bond sale.

HFA 114.09 Additional Requirements

- (a) Upon review of the Application, site visit, and review of other material available, the Authority may require the preparation of other third party reports. These reports may include, but are not limited to:
 - (1) Market studies;
 - (2) Environmental reviews;
 - (3) Appraisals; and
 - (4) Engineering reports.

Such reports will be commissioned by the Authority but the cost will be borne by the Applicant. Before the Authority authorizes any third party contracts, the Applicant will have deposited with the Authority adequate funds to cover the costs of said reports.
- (b) All Complete Applications meeting the general criteria will be underwritten, in accordance with the Authority's underwriting policy, to ensure that no more than the minimum amount of subsidy that is necessary is included in the project.
- (c) All projects must be constructed or rehabilitated in accordance with HFA 111 and all applicable federal, state, and local codes.

HFA 114.10 Approval Process

- (a) After the required procedures and final project underwriting is complete, financing approvals will be made by the Authority's Board of Directors. A commitment letter will be issued within 14 days of Board Approval.
- (b) Subsequent to Board approval, a mutually agreeable schedule will be developed by the Authority, to include, but not be limited to:
 - (1) Bond document development and cash flows;
 - (2) Pre-closing and closing costs of the real estate; and
 - (3) Pre-closing and closing costs of the bonds.
- (c) The real estate closing will be held in escrow approximately 14 days prior to the bond closing date. In general, funds will not be available to the project until the bonds have been closed.

HFA 114.11 Credit Enhancement

The Authority, in connection with the corresponding issuance of tax exempt bonds to finance a project, will determine the form, and cause to be put in place, a credit enhancement on the financing transaction to ensure that, at a minimum, a Moody's bond rating of Aa2 is achieved and maintained.

HFA 114.12 Bond Issuance

The Authority, at its sole discretion, will determine the timing, structure, and method of marketing the bonds to finance a project, including the designation of bond underwriters, if applicable.

HFA 114.13 Anti-Displacement and Relocation Policy

Involuntary permanent displacement of tenants is strongly discouraged. The Authority may reject an Application that fails to minimize permanent displacement of tenants. Any proposed temporary or permanent relocation of tenants should generally meet standards equivalent to the federal Uniform Relocation Act. A formal relocation plan must be submitted with the Application if any temporary or permanent relocation is anticipated.

HFA 114.14 Compliance

- (a) All projects receiving financing must maintain income and rent targeting requirements as outlined in these rules. The restrictions will be enforced by a Regulatory Agreement and, if tax credits are used, a LURA for Low Income Housing Tax Credits. These agreements may also contain other conditions which the Authority may impose on the project.

- (b) Other documents and certificates necessary for the Authority to issue bonds may need to be executed by the Applicant including, but not limited to, a Continuing Disclosure Agreement, post bond issuance continuing disclosure compliance procedures, tax certificates with respect to compliance with requirements for tax-exempt status (in cases in which bonds are being issued as tax-exempt bonds), post bond issuance tax compliance procedures, and any other document or certificate required by bond counsel as a condition for bond counsel's approving opinion to the Authority with respect to the tax-exempt status of the bonds (in cases in which bonds are being issued as tax-exempt bonds) and certain matters relating to the due issuance and security for the bonds.