
**TENNESSEE HOUSING DEVELOPMENT
AGENCY**

**2018 MULTIFAMILY TAX-EXEMPT
BOND AUTHORITY PROGRAM DESCRIPTION**

Amended January 29, 2020

Tennessee Housing Development Agency Multifamily Tax-Exempt Bond Authority 2018 Summary

- **THDA has authorized the allocation of Multifamily Tax-Exempt Bond Authority to local issuers for multifamily developments:**
 - **\$210 million in Multifamily Tax-Exempt Bond Authority** for developments which will close financing by the date specified in the Firm MTBA Commitment Letter.
- **Bonds must be issued by a local board or other issuing entity with jurisdiction in the area of the proposed development, or by an entity from outside the area of the proposed development, such entity having the authority to issue bonds in the area of the proposed development and consent from the issuing entity in the area of the proposed development.**
- **Some units must be occupied low-income households:** twenty percent (20%) of the units must be occupied by households with incomes no greater than fifty percent (50%) of area median income, or forty percent (40%) of the units must be occupied by households with incomes no greater than sixty percent (60%) of area median income.
- THDA will allocate **a maximum of twenty five million dollars (\$25,000,000)** in Multifamily Tax-Exempt Bond Authority per development.
- The application submission period extends until the earlier of the date upon which all Multifamily Tax-Exempt Bond Authority made available hereunder is fully committed or September 20, 2018.
- Multifamily Tax-Exempt Bond Authority will be allocated only to **eligible applications** on a first come, first served basis. If THDA receives multiple applications on the same day that, in the aggregate, request more Multifamily Tax-Exempt Bond Authority than is available, those applications will be ranked according to Part IV-C.
- **Applicants must meet THDA and federal tax requirements and all other applicable federal, State, and local laws or ordinances.**
- **A non-refundable application fee is required with each application.**

Tennessee Housing Development Agency Multifamily Tax-Exempt Bond Authority for 2018

2018 Program Description

Part I: Multifamily Tax-Exempt Authority Available

A. Purpose

The Tennessee Housing Development Agency (THDA) is making Multifamily Tax-Exempt Bond Authority ("MTBA") available to local issuers for financing multifamily housing units in Tennessee. The MTBA can be used only to provide financing for new construction of affordable rental housing units, for conversion of existing properties through adaptive reuse, or for acquisition and rehabilitation of rental units, subject to the conditions and requirements described below, and subject to Internal Revenue Service requirements.

B. Amount

Two hundred and ten million dollars (\$210,000,000) of MTBA is available during the application submission period described in Part V.

C. Availability

MTBA will be available statewide to eligible applicants until the end of the application period specified in Part V and subject to all other requirements of this Program Description.

Part II: Eligibility

A. Use of MTBA

1. Any MTBA allocated pursuant to this Program Description must be used to provide financing for the development such that, as of the rehabilitation or new construction placed in service date, a minimum of fifty percent (50%) of the amount of Tax-Exempt Bond Authority closed and sold remains outstanding and such amount of bonds outstanding otherwise meets the requirements of Section 42(h)(4).
2. Applicants for and recipients of MTBA must issue bonds no later than 11:59 PM Central Time on the date specified in the Firm MTBA Commitment Letter.
3. To the extent not otherwise specified herein, all federal tax requirements for private activity bonds must be met.

B. Eligible Developments

1. The development must be:
 - a. New construction;
 - b. A conversion of an existing property not being used for housing; or
 - c. Acquisition and rehabilitation.
2. To the extent not otherwise required, the development must have hardwired smoke detectors, with battery backup, in the bedroom areas of all units.

3. One hundred percent (100%) of the units in buildings with elevators in the development and all ground floor units in non-elevator buildings in the development are “covered multifamily dwellings” (as defined in the Fair Housing Act). All covered multifamily dwellings must meet all accessible design requirements under the Fair Housing Act and must otherwise be designed and built in accordance with the Fair Housing Act (including one of the eight safe harbors recognized by HUD as shown on **Exhibit 5**) and all other areas in the development open to the public are “public accommodations” as defined in the Americans with Disabilities Act and must be designed and built in accordance with the Americans With Disabilities Act. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX.

C. Ineligible Developments

1. Developments involving entities or individuals previously involved in a development that, at any time within a period of one year prior to the submission of the application for 2018 MTBA, failed to submit any documentation required in Part IX-E.
2. Developments involving entities or individuals previously determined, in THDA’s sole discretion, to be or have been involved in any MTBA Application that received an allocation of MTBA but (a) failed to meet established deadline for issuance and sale of the tax-exempt bonds; or (b) failed to place the development in service; or (c) failed to meet other requirements of this Program Description.
3. In the event that any of the following triggering events occur with regard to a proposed development or a development that has received an allocation of MTBA from THDA, all individuals involved in the owner and developer, as determined by THDA, in its sole discretion, of the relevant development will be prohibited from participating in the MTBA program in Tennessee for a period of five (5) years commencing with the year in which THDA becomes aware of the occurrence of the triggering event:
 - a. General Partner/Managing Member/Sole Stockholder entity being removed from the ownership entity of a previous development due to poor performance and/or malfeasance. THDA staff will communicate with other parties involved in the development (e.g. lender and syndicator) to determine the circumstances surrounding the removal; or
 - b. Uncured event of default under the Section 1602 or Tax Credit Assistance Program; or
 - c. Fair Housing Act violations involving a finding of discrimination by an adverse final decision from a federal court or a judgment enforcing the terms of a consent decree;
 - d. Foreclosure involving loss of units to the affordable housing stock or failure to notify THDA of foreclosure (including a deed in lieu of foreclosure transaction); or
 - e. Misrepresentation of any item, as determined by THDA in its sole discretion, in the Application, as determined by THDA in its sole discretion; or
 - f. Failure to fulfill commitments made for points; or

- g. Failure to respond to any written request from THDA for information and/or documentation within thirty (30) days of the date of such request; or
 - h. Failure to fully satisfy all applicable compliance monitoring requirements; or
 - i. Being placed in “No Further Monitoring” status.
4. Prohibition of an individual’s participation in the MTBA program in Tennessee pursuant to Part II-C-4 shall be determined by THDA staff. Any individual so prohibited may appeal the determination to the THDA Executive Director and the THDA Board Chair. The determination of prohibition shall be at the sole discretion of the THDA Executive Director and the THDA Board Chair and shall not be appealable to the THDA Board or the Tax Credit Committee of the THDA Board.
- a. There will be no prohibition if the triggering event occurred prior to the date of the approval of this Program Description by the THDA Board of Directors.
 - b. There will be no prohibition if THDA becomes aware of the triggering event more than five (5) years after its occurrence.
 - c. No prohibition will be imposed on a development or proposed development involving the prohibited individuals that received an allocation of Tax Credits between the occurrence of the triggering event and the time THDA becomes aware of the triggering event.
5. Any prohibition of participation in the Low-Income Housing Tax Credit Program pursuant to Part VII-A-4-c of the Low-Income Housing Tax Credit 2018 Qualified Allocation Plan shall constitute a prohibition of participation in the MTBA program pursuant to Part II-C-4.
6. Voluntary withdrawal of a MTBA Application in accordance with all applicable program requirements will not cause ineligibility.

D. Identity of Interests

If a development involves acquisition of land or buildings, there can be no more than a fifty percent (50%) identity of interest between buyer and seller.

E. Tenants to be Served

- 1. Twenty percent (20%) of the units in the development must be occupied by households with incomes no greater than fifty percent (50%) of the area median income; **or**
- 2. Forty percent (40%) of the units in the development must be occupied by households with incomes no greater than sixty percent (60%) of the area median income.

F. Notice to Applicants Meeting Eligibility Requirements

- 1. THDA will notify each applicant when the eligibility determination and scoring of the application is complete.
- 2. If THDA determines that an application meets all of the eligibility requirements of this Program Description, a Conditional MTBA Commitment Letter or a Firm MTBA Commitment Letter may be issued.

G. Notice to Applicants Not Meeting Eligibility Requirements or Incomplete

- 1. THDA will notify applicants if THDA determines that (a) any two or more developments proposed in two or more applications constitute a single development for purposes of applying the development limits specified in Part II-A

or Part II-B (b) developers or related parties reflected in two or more applications constitute a single entity for purposes of applying the developer or related party limitation specified in Part II-D.

2. **Applicants with uncured deficiencies may, at THDA's sole discretion, be removed from further consideration under this Program Description after THDA, in its sole discretion, determines that the deficiencies have remained uncured for a period of at least 30 calendar days.**

Part III: Limits

A. New Construction

1. A development involving new construction may not receive more than twenty five million dollars (**\$25,000,000**) of MTBA.
2. Applicant may submit a written request for an exception to the maximum MTBA limit for new construction. The request must be included with the application, and include sufficient supporting documentation and information to substantiate the request as determined by THDA, in its sole discretion. Only one request per application will be considered. Requests may be granted or denied by THDA, in its sole discretion.

B. Acquisition and Rehabilitation, Conversion, and Preservation

1. Substantial Rehabilitation: maximum **\$25,000,000** of MTBA
 - a. Developments involving substantial rehabilitation must be rehabilitated so that, upon completion of all rehabilitation as described in the Physical Needs Assessment, the major building systems will not require further substantial rehabilitation for a period of at least fifteen (15) years from the required placed in service date. Major building components are roof structures, wall structures, floor structures, foundations, plumbing systems, central heating and air conditioning systems, electrical systems, interior and exterior doors, windows, parking lots, elevators, and fire/safety systems. Rehabilitation hard costs must be no less than the greater of thirty percent (30%) of building acquisition costs or eleven thousand dollars (\$11,000) per unit. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX.
 - b. Applicant may submit a written request for an exception to the maximum MTBA limit for substantial rehabilitation. The request must be included with the application, and include sufficient supporting documentation and information to substantiate the request as determined by THDA, in its sole discretion. Only one request per application will be considered. Requests may be granted or denied by THDA, in its sole discretion.
2. Moderate Rehabilitation: maximum **\$16,000,000** of MTBA
 - a. Developments involving moderate rehabilitation must be rehabilitated so that, upon completion of all rehabilitation, rehabilitation hard costs must be no less than the greater of twenty five percent (25%) of building acquisition cost or seven thousand dollars (\$7,000) per unit. The rehabilitation scope of work must include, at a minimum, all appliances in all units being Energy-Star compliant, and all work specified in the Physical Needs Assessment with

regard to drywall, carpet, tile, interior and exterior paint, the electrical system, heating and air conditioning systems, roof, windows, interior and exterior doors, stairwells, handrails, and mailboxes. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX.

- b. Applicant may submit a written request for an exception to the maximum MTBA limit for moderate rehabilitation. The request must be included with the application, and include sufficient supporting documentation and information to substantiate the request as determined by THDA, in its sole discretion. Only one request per application will be considered. Requests may be granted or denied by THDA, in its sole discretion.
3. Limited Rehabilitation: maximum \$13,700,000 of MTBA
 - a. Developments involving limited rehabilitation must be rehabilitated so that, upon completion of all rehabilitation, rehabilitation hard costs must be no less than the greater of twenty percent (20%) of building acquisition cost or six thousand dollars (\$6,000) per unit. The rehabilitation scope of work must include, at a minimum, all work specified in the Physical Needs Assessment with regard to interior and exterior common areas, interior and exterior painting and/or power washing, gutters, parking areas, sidewalks, fencing, landscaping, and mailboxes. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX.
 - b. Applicant may submit a written request for an exception to the maximum MTBA limit for limited rehabilitation. The request must be included with the application, and include sufficient supporting documentation and information to substantiate the request as determined by THDA, in its sole discretion. Only one request per application will be considered. Requests may be granted or denied by THDA, in its sole discretion.
 4. All rehabilitation expenditures must satisfy the requirements of Section 42(e)(3)(A)(ii) of the Code.

C. Special Request Applications

1. A Special Request Application may receive MTBA subject to approval by the Tax Credit Committee of the THDA Board of Directors. A Special Request Application must satisfy, without limitation, all of the following conditions as determined by THDA, in its sole discretion:
 - a. A Special Request Application must propose preservation of a development with existing income and rent restrictions. The Initial Application must include documentation, acceptable to THDA, in its sole discretion, verifying the existing income and rent restrictions. Existing income and rent restrictions must be related to one of the following:
 - (i) The Low-Income Housing Tax Credit program;
 - (ii) The MTBA program; or
 - (iii) A program administered by USDA or HUD, AND

- b. A Special Request Application must propose a minimum of five hundred (500) low-income units at a single location/site, as determined by THDA, in its sole discretion. The minimum MTBA request for this type of a Special Request Application is forty million dollars (\$40,000,000) OR
 - c. A Special Request Application must propose a package of multiple USDA Rural Development developments submitted pursuant to Part IV-B Multiple Applications for a Single Development and requesting a minimum of twenty five million dollars (\$25,000,000) of MTBA.
2. Special Request Applications approved by the Tax Credit Committee of the THDA Board of Directors will not count against the limits specified in Part III-B or the limit specified in Part III-E.
 3. A single applicant, developer, owner, or related parties, as determined by THDA, in its sole discretion, may only submit one (1) Special Request Application per calendar year.
 4. Any MTBA allocated to a Special Request Application will come from MTBA requested and received by THDA in addition to the amount specified in Part I-B. The MTBA amount specified in Part I-B is not available for allocation to Special Request Applications.
 5. A Conditional MTBA Commitment Letter (as described in Part VIII-A-1) issued to a Special Request Application may have an expiration date up to thirty (30) months from the date of issuance.
 6. The notice requirement (as described in Part VIII-A-1-d) for a Special Request Application will be sixty-five (65) calendar days.

D. Adverse Action by Local Jurisdiction

If, following the allocation of MTBA to a proposed development, the local jurisdiction in which the proposed development is located takes action that THDA, in its sole discretion, determines to be for the primary purpose of preventing the proposed development from satisfying applicable program requirements, THDA may lower the amount of MTBA available to that jurisdiction in future Multifamily Tax-Exempt Bond Authority Program Descriptions. Examples include, without limitation, “downzoning”, action regarding utilities or utility connections, action regarding required public roads, or action to prevent issuance of Certificates of Occupancy.

E. Maximum Amount of MTBA per Developer or Related Parties

The maximum amount of MTBA that may be committed to a single applicant, developer, owner, or related parties shall not exceed sixty million dollars (**\$60,000,000**). THDA reserves the right, in its sole discretion, to determine whether related parties are involved for the purpose of applying this limitation.

F. Limit on Developer’s Fee

1. The sum of developer and consultant fees reflected in the development costs worksheet may not exceed twenty five percent (25%) of total development costs (see Part III-F-5 below). If the sum of developer and consultant fees reflected in the development costs worksheet exceeds the amount described in Part III-F-2 or Part III-F-3 below (as applicable), then all developer and consultant fees in excess of the amount described in Part III-F-2 or Part III-F-3 below (as applicable) must be reflected as deferred fees and included in the sources of permanent financing.

2. If the developer and the contractor are **unrelated**, the *non-deferred* developer and consultant fees cannot exceed fifteen percent (15%) on the portion of the basis attributable to acquisition (before the addition of the fees), and cannot exceed fifteen percent (15%) of the portion of the basis attributable to new construction or to rehabilitation (before the addition of the fees).
3. If the developer and contractor are **related** parties, then the *non-deferred* combined fees for contractor's profit, overhead, and general requirements plus the developer's and consultant's fees, cannot exceed fifteen percent (15%) of the portion of the basis attributable to acquisition (before the addition of the fees), and cannot exceed twenty five percent (25%) of the portion of the basis attributable to new construction or to rehabilitation (before the addition of the fees).
4. If the **deferred** developer and consultant fees are **greater than** twenty five percent (25%) of total development cost minus the amount described in Part III-F-2 or Part III-F-3 below (as applicable), then the application must include evidence satisfactory to THDA, in its sole discretion, that the deferred developer and consultant fees will be repaid and will not jeopardize the financial feasibility of the development.
5. For purposes of this Part III-F, cash reserves are excluded from total development costs.

G. Limits on Costs of Issuance

As provided in Section 147 (g), the costs of issuance financed by the proceeds of private activity bonds issued to finance multifamily housing may not exceed two percent (2%) of the proceeds of the issue.

Part IV: Receipt of Applications

A. Electronic Application Process

1. THDA is utilizing an on-line electronic application process for submission of 2018 MTBA applications.
2. For assistance with the electronic application system, contact THDA as follows:
 - a. Felita Hamilton, Multifamily Programs Allocation Manager
Phone (615) 815-2145 Email FHamilton@thda.org
3. If THDA determines that the electronic application system malfunctions to a degree and in a way that renders users unable to submit electronic MTBA applications online, THDA will provide alternative instructions to the users that THDA determines to have been affected.
4. To be considered complete, an electronic Initial Application must meet ALL of the following requirements:
 - a. Be completely and correctly submitted through the electronic application system; and
 - b. All required Attachments and supporting documentation required to be submitted in electronic form within the electronic application system must be organized as required by the electronic application system; and
 - c. Include an ACH wire in the amount of all fees required with the electronic MTBA application as specified in Part IX; and

- d. Unless otherwise specifically directed by THDA, all electronic MTBA application materials, including Attachments and supporting documentation, must be formatted in accordance with the requirements of the electronic application system.

B. Multiple Applications for a Single Development

1. Multiple applications submitted as separate phases of one development will be considered as one development and reviewed as one application. THDA reserves the right to request additional information or documentation, if necessary, to determine if applications submitted will be considered and reviewed as one or more developments.
2. Only one application may be submitted and be considered for a development. THDA reserves the right to request additional information or documentation to determine if applications submitted will be considered and reviewed as one or more developments.
3. A single application may be submitted for up to four developments provided that **each** of the following conditions applies to **each** development:
 - a. located in a rural county as defined in **Exhibit 3**;
 - b. no more than 48 total units; and
 - c. if developments are not all located within the same county, all counties in which the developments are located must be contiguous and within the same Grand Division.

An application submitted under this Part IV-B-3 will be treated as an application for a single development for purposes of applying the limits in Part III-A and Part III-B of this Program Description.

4. In cases involving a single issuing entity conducting a single bond issuance to provide financing for multiple developments, the following requirements, at minimum, will apply *in addition to* all other applicable requirements as described herein:
 - a. A separate and full MTBA electronic application must be submitted for each development; and
 - b. An application fee as described in Part IX-A must be submitted with the application for each development; and
 - c. If one or more of the developments is outside the jurisdiction of the issuing entity, the application must include documentation satisfactory to THDA certifying that that the issuing entity is permitted to, and the jurisdiction in which the development is located consents to, the issuance of the bonds.

C. Multiple Applications Received on the Same Day

1. If THDA receives multiple eligible applications on the same day that, in the aggregate, request more MTBA than is available, the eligible applications will be ranked in descending order by score and priority will be given to the eligible application(s) with the highest score. If two or more eligible applications have the same score, the eligible applications with the same score will be ranked in ascending order by MTBA requested per low-income unit and priority will be given to the eligible application(s) with the lowest MTBA requested per low-income unit.

D. Conditional or Firm MTBA Commitment Letter Request

1. Applications must indicate whether applicant is requesting a Conditional MTBA Commitment Letter or a Firm MTBA Commitment Letter as described in Part VIII of this Program Description.

Part V: Application Submission Period

No application will be accepted after 11:59 PM Central Time on the earlier of the date upon which the amount of MTBA made available hereunder is fully committed pursuant to Firm MTBA Commitment Letters issued under Part VIII of this Program Description or September 20, 2018. Applications resubmitted under Part II-G will be treated as new applications. No applications submitted under this Program Description will have priority or be considered under any Multifamily Tax-Exempt Bond Authority Program Description THDA may develop for 2019. New applications must be submitted for allocations of 2019 MTBA following the 2019 Effective Date and such new applications will be subject to all requirements of any Multifamily Tax-Exempt Bond Authority Program Description THDA may develop for 2019. Any application received on the 2019 Effective Date will be handled and evaluated under the 2019 Multifamily Tax-Exempt Bond Authority Program Description.

Part VI: Review of Applications for Completeness

A. Applications must be complete.

An application must be complete, as determined by THDA in its sole discretion, based on the requirements in this Program Description and the on-line application. THDA may request additional documentation and/or information for purposes of clarification. An applicant may request a determination from THDA's Executive Director regarding the reasonableness of such a request.

B. Market Study Required

1. A market study, performed by an independent third party selected from **Exhibit 4** and prepared in accordance with the requirements of **Exhibit 1** (the "Market Study"), must be submitted with the application for all proposed developments. The Market Study, in a form and with content acceptable to THDA in its sole discretion, must support the need and demand for the proposed development.
2. The Market Study must be less than six months old at the time of submission in order to be acceptable.
3. Based on the information and analysis presented in the Market Study, and based on other information available to THDA, THDA may determine, in its sole discretion, that market demand is not sufficient to support the proposed development.

C. Appraisal Required

The application must include an appraisal (**Exhibit 7**) of the proposed development performed in accordance with industry standards, by an appraiser licensed in Tennessee. The appraisal cannot be based solely or largely on a "cost" approach to value, but must also consider market and income approaches to value. The appraisal must include an assessment of the value of any noncompetitive Low-Income Housing Tax Credit. If the application is proposing acquisition of an existing structure, an "as is" appraisal must also be included regardless of whether noncompetitive Low-Income Housing Tax Credit for acquisition is sought.

D. Physical Needs Assessment Required

For applications proposing adaptive reuse, preservation, or rehabilitation, the application must include a Physical Needs Assessment (**Exhibit 8**) conducted by an independent third party. The Physical Needs Assessment must be in a form and with content acceptable to THDA in its sole discretion, and must include a complete and detailed work plan showing all necessary and contemplated improvements **to be completed prior to the rehabilitation placed in service date**, the projected cost, and confirmation that the work plan addresses all applicable requirements of Part III-B of this Program Description. Physical Needs Assessments must be less than six months old at the time of submission in order to be acceptable. The Physical Needs Assessment must be based on a physical inspection of the building(s) occurring no more than 6 months prior to the effective date of the Physical Needs Assessment.

E. Minimum Score Required

The application must receive at least 78 points under Part VII.

F. Land Use Restrictive Covenant Required

THDA will provide a Land Use Restrictive Covenant with a term of fifteen (15) years for developments using MTBA **without** noncompetitive Low-Income Housing Tax Credit. THDA will provide a Land Use Restrictive Covenant for developments using MTBA and noncompetitive Low-Income Housing Tax Credit based on the terms of and elections under the 2018 Qualified Allocation Plan. The Land Use Restrictive Covenant must be executed, recorded in the county where the development is located, and **the original** returned to THDA no later than the date specified in the Firm MTBA Commitment Letter.

G. Building Codes Compliance Required

The development must meet all applicable local building codes or in the absence of such codes, the development must meet the following, as applicable: new construction of multi-family apartments of three (3) or more units must meet the 2012 International Building Code; new construction or reconstruction of single-family units or duplexes must meet the 2009 International Residential Code for One- and Two-Family Dwellings; and rehabilitation of rental units must meet the 2012 International Existing Building Code and the 2012 International Property Maintenance Code. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX.

H. Program Requirements and IRS Requirements

All program description requirements, application requirements, and IRS requirements must be met. If there is any inconsistency or conflict among the requirements, the most stringent of the requirements will apply, as determined by THDA.

I. Information must be current.

1. Appraisal, Physical Needs Assessment, and market information older than six months, as determined by the date prepared and information contained therein will not be considered current or complete. Supplemental documentation, including any commitments, should not have expired if they contain an expiration date, or the application will not be considered complete. Documents indicating

approval dates that have passed will not meet application requirements. Applications with such documents will be considered incomplete.

2. A resolution authorizing the issuance of bonds passed by the relevant issuing entity must be current and valid at the time of application. The applicant should coordinate any updates that may be required for the resolution to remain in effect. Information submitted that is not current will not be accepted by THDA and will cause the application to be deemed incomplete. Any information or documentation, which is not current or complete, will impair an applicant's chances of receiving MTBA.

J. Responsibility for Complete and Current Information

It is the sole responsibility of the applicant to submit a complete application with complete and current information.

Part VII: Scoring

A. Meeting Housing Needs: *Maximum 50 points*

1. Developments located in counties with the greatest rental housing need (**Exhibit 6**): ***Maximum 46 points***
2. Developments located wholly and completely in a Qualified Census Tract or a Difficult to Develop Area as designated by HUD (**Exhibit 2**): ***4 points***

B. Development Characteristics: *Maximum 35 points*

1. Developments not involving rehabilitation designed and built to promote energy conservation by meeting the standards of the 2009 International Building Code. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX: ***10 points***
2. Developments not involving rehabilitation designed and built using brick, stone, cement fiber siding, or vinyl to meet a 15-year maintenance-free exterior standard. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX: ***10 points***
3. Developments not involving rehabilitation designed and built with a minimum of sixty five percent (65%) of the exterior wall surfaces below the plate line covered with brick, stone, or cement fiber siding. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX: ***15 points***
4. Rehabilitation Only
 - a. Developments involving major rehabilitation, as described in Part III-B-1 of this Program Description: ***35 points***
 - b. Developments involving moderate rehabilitation, as described in Part III-B-2 of this Program Description: ***30 points***
 - c. Developments involving limited rehabilitation, as described in Part III-B-3 of this Program Description: ***25 points***

5. For developments involving a combination of new construction and rehabilitation, points will be prorated based on the percentage of units in each category.

C. Serving Special Populations: *Maximum 50 points*

The Application must propose a development that serves households with special housing needs. Special needs housing is housing that has been constructed or rehabilitated with special features (e.g. location, design, layout, on-site services) to help people live at the highest level of independence in the community. For example, the unit may be adapted to accommodate special physical or medical needs; or provide on-site services such as staff support for the elderly, individuals with mental health issues, developmental, or other social needs. **In order to qualify for points, the proposed development must include on-site services for the targeted tenant population. The Application must include a comprehensive service plan that identifies each service to be provided; the anticipated source of funding for each service; the physical space that will be used to provide each service; and the anticipated supportive service provider for each service and their experience in providing service to the targeted population. Verification of tentative agreements with providers of on-site services throughout the first two (2) years following the required placed in service date must be included with the Application. Final agreements with providers of on-site services throughout the first two (2) years following the required placed in service date must be submitted prior to any partial refund of the Commitment Fee pursuant to Part IX. Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX.**

1. Residency Preference for Households with Children: Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX: **20 points**
A minimum of twenty percent (20%) of the units in the development, rounded up to the nearest whole unit, must have two (2) or more bedrooms.
The development must include a playground with permanent playground equipment and at least one (1) of the following on-site amenities:
 - a. Appropriately sized, dedicated space with appropriate furniture and fixtures for and agreements with providers of after-school tutoring or homework help programs; or
 - b. Appropriately sized computer room containing at least one (1) computer with free internet access for each fifty (50) total units; or
 - c. Ball court separate from all parking areas.

OR

2. Residency Preference for Households with Special Housing Needs: Certification from the design architect will be required following the issuance of the Firm MTBA Commitment Letter. Confirmation from the supervising architect will be required prior to any partial refund of the Commitment Fee pursuant to Part IX: **20 points**
The development must include an appropriately sized, dedicated space with appropriate furniture and fixtures for, and agreements with, providers of services relevant to special housing needs residents and at least one (1) of the following on-site amenities:

- a. Appropriately sized computer room containing at least one (1) computer with free internet access for each fifty (50) total units; or
- b. Exercise facility for appropriate group activity for special housing needs residents (space must be at least 900 square feet, if indoor); or
- c. Gazebo with outdoor shaded sitting area with ornamental flowers and shrubs.

AND

- 3. Election to set aside up to twenty percent (20%) of the units (which number shall be rounded up to the next whole unit) for households with incomes no higher than fifty percent (50%) of the area median income with rents maintained at or below the 50% of area median income maximums. Units occupied by households with Section 8 Housing Choice Vouchers count toward this requirement: *maximum 30 points*

<u>Percent of units</u>	<u>Points</u>
At least 5%	5 points
At least 10%	10 points
At least 15%	20 points
At least 20%	30 points

NOTE: Election of points under this Part VII-C-3 shall constitute a corresponding election of points under Part VII-B-4 of the 2018 Low-Income Housing Tax Credit Qualified Allocation Plan with regard to an application for noncompetitive Low-Income Housing Tax Credit.

D. Increasing Housing Stock: 5 points

Developments which are new construction or are conversions of buildings not being used for housing which make them usable as housing.

E. Affirmatively Furthering Fair Housing: 2 points

The development must have and be operated in accordance with marketing plans, lease-up plans, and operating policies and procedures which are fully compliant with the THDA Affirmative Marketing Policy and Procedures.

F. Enterprise Green Community Certification: 25 points

Developments fully certified as compliant with Enterprise Green Community requirements. Certification documentation will be required prior to any partial refund of the Commitment Fee pursuant to Part IX.

Part VIII: Commitment of MTBA

A. Type of MTBA Commitment Letter

- 1. Conditional MTBA Commitment Letter
 - a. If THDA, in its sole discretion, determines that an eligible application requesting a Conditional MTBA Commitment Letter has met all applicable requirements of this Program Description, THDA may issue a Conditional MTBA Commitment Letter with an expiration date of December 19, 2018. The limit specified in Part III-E will apply.
 - b. No extension to the Conditional MTBA Commitment Letter expiration date will be granted.

- c. **A Conditional MTBA Commitment Letter IS NOT A GUARANTEE OF AVAILABILITY OF MTBA. THDA may issue Conditional MTBA Commitment Letters that, in aggregate, reflect MTBA in excess of the amount available under this Program Description.**
 - d. An applicant with a Conditional MTBA Commitment Letter must notify THDA of its intent to convert a Conditional MTBA Commitment Letter to a Firm MTBA Commitment Letter no less than 45 calendar days prior to the date the applicant wishes to receive the Firm MTBA Commitment Letter.
2. Firm MTBA Commitment Letter
- a. If THDA, in its sole discretion, determines that an eligible application requesting a Firm MTBA Commitment Letter has met all applicable requirements of this Program Description, THDA may issue a Firm MTBA Commitment Letter. The limit specified in Part III-E will apply.
 - b. Except as specified in Part VIII-A-2-c, a Firm MTBA Commitment Letter will have an expiration date either ninety (90) or one hundred and twenty (120) calendar days from the date of issuance. The expiration date will be determined by THDA, in its sole discretion.
 - c. Any Firm MTBA Commitment Letter issued after July 31, 2018 will have an expiration date of December 19, 2018.
 - d. Any Firm MTBA Commitment Letter issued before August 1, 2018 will be permitted to request a single extension of thirty (30) calendar days to the expiration date. An Extension Fee (as described in Part IX-L-1) must accompany the extension request. The extension request may be approved or denied by THDA, in its sole discretion.
 - e. **THDA will not issue Firm MTBA Commitment Letters that, in aggregate, exceed MTBA in excess of the amount available under this Program Description.**

Part IX: Fees, Partial Refunds of Fees, and Fees Retained by THDA

A. Application Fee

An Application Fee of one thousand five hundred dollars (\$1,500) must be submitted to THDA at the time an application is submitted. **THIS FEE IS NOT REFUNDABLE.** If the fee is not submitted at the time an application is submitted, the application is incomplete and will be returned. Applications returned for this reason must submit the full one thousand five hundred dollar (\$1,500) Application Fee if resubmitted.

B. Special Request Application Fee

A Special Request Application Fee of five thousand dollars (\$5,000) must be submitted to THDA at the time a Special Request Application is submitted. **THIS FEE IS NOT REFUNDABLE.**

C. Resubmission Fee

A Resubmission Fee of seven hundred and fifty dollars (\$750) must be submitted to THDA if an application is resubmitted following the resubmission deadline specified in the notice described in Part II-G. **THIS FEE IS NOT REFUNDABLE.**

D. Conditional MTBA Commitment Letter Fee

A Conditional MTBA Commitment Letter Fee of five thousand dollars (\$,5000) must be submitted in order for the Conditional MTBA Commitment Letter to be valid. THIS FEE IS NOT REFUNDABLE.

E. Commitment Fee and Incentive Fee

1. Applications receiving a Firm MTBA Commitment Letter from THDA for a specific amount of MTBA must submit a Commitment Fee and an Incentive Fee in order for the Firm MTBA Commitment Letter to be valid.
2. For a Firm MTBA Commitment Letter with a ninety (90) day term:
 - a. The Commitment Fee will be an amount equal to one percent (1%) of the MTBA allocated to the local issuer.
 - b. The Incentive Fee will be equal to twenty percent (20%) of the Commitment Fee.
3. For a Firm MTBA Commitment Letter with a one hundred and twenty (20) day term:
 - a. The Commitment Fee will be an amount equal to one percent (1%) of the MTBA allocated to the local issuer.
 - b. The Incentive Fee will be equal to twenty percent (20%) of the Commitment Fee.

F. Refund of Commitment Fee and Incentive Fee Following Issuance of MTBA

1. The following documentation, without limitation, must be submitted by the applicable deadlines:
 - a. documentation from the issuing authority's bond counsel (including, without limitation, a Closing Confirmation Letter) must be submitted **no later than the expiration of the Firm MTBA Commitment Letter**;
 - b. acceptable proof that all units are constructed and the facility is placed in service must be submitted no later than two years after the expiration of the Firm MTBA Commitment Letter;
 - c. all applicable certifications required in Part VII must be submitted no later than two years after the expiration of the Firm MTBA Commitment Letter; and
 - d. acceptable proof that all forms to be filed by the issuing authority have been completed and filed to THDA's satisfaction must be submitted no later than two years after the expiration of the Firm MTBA Commitment Letter.
2. Following satisfaction of all applicable requirements of Part IX-D-1-a above, fifty percent (50%) of the Commitment Fee will be refunded.
3. If all the conditions of Part IX-D-1 have been met and the bonds were issued and sold on or before 1:00 PM Central Time on the date specified in the Firm MTBA Commitment Letter, THDA will refund the Incentive Fee.
4. If the application is withdrawn, THDA will retain the full amount of the Incentive Fee. If the application is resubmitted in substantially the same form and during the same calendar year, in THDA's sole discretion, the retained Incentive Fee from the withdrawn application may be applied toward the Incentive Fee for the resubmitted application.

G. Release of Commitments and Partial Refund of Commitment Fee

1. Commitments may be released by notifying THDA, in writing, prior to the expiration of the Firm MTBA Commitment Letter, that the bonds will not be issued.
2. A commitment which is released according to these requirements may receive a refund of seventy-five percent (75%) of the Commitment Fee. THDA will retain twenty-five percent (25%) of the Commitment Fee.

H. Release of Commitments and Refund of Incentive Fee

1. <u>Phase</u>	<u>90-day deadline</u>	<u>120-day deadline</u>
Phase A	days 1-30	days 1-45
Phase B	days 31-60	days 46-90
Phase C	days 61-89	days 91-119
Phase D*	days 90-119	days 120-149

* only applicable if extension to deadline granted by THDA

2. If a Firm MTBA Commitment Letter is released during **Phase A**, THDA may refund the full Incentive Fee, and the applicant may reapply for 2018 MTBA.
3. If a Firm MTBA Commitment Letter is released during **Phase B**, THDA may refund fifty percent (50%) of the Incentive Fee, and the applicant may reapply for 2018 MTBA.
4. If a Firm MTBA Commitment Letter is released during **Phase C**, THDA may retain the full Incentive Fee, and the applicant may reapply for 2018 MTBA.
5. If a Firm MTBA Commitment Letter is released during **Phase D**, THDA may retain the full Incentive Fee, and the applicant may reapply for 2018 MTBA.

I. Commitment Fee and Incentive Fee Retained by THDA

1. If the bonds are not issued by the expiration date of the Firm MTBA Commitment Letter, and the Firm MTBA Commitment Letter has not been released pursuant to Part IX, and no extension has been requested pursuant to Part VIII-A-2-d, THDA will retain the full amount of the Commitment Fee and the full amount of the Incentive Fee. **NONE** of the Commitment Fee and **NONE** of the Incentive Fee will be refunded to the applicant. The MTBA application for the development may not be resubmitted in 2018, and all individuals involved in the owner or developer, as determined by THDA, in its sole discretion, will be prohibited from applying for MTBA until January 1, 2021.
2. If the bonds are issued and sold, but the development is not placed in service, THDA will retain the full amount of the Commitment Fee and the full amount of the Incentive Fee. **NONE** of the Commitment Fee and **NONE** of the Incentive Fee will be refunded to the applicant.
3. If a request for an extension to the deadline for closing the sale of the bonds beyond 11:59 PM Central Time on the date specified in the Firm MTBA Commitment Letter is approved in accordance with Part VIII-A-2-d, **NONE** of the Incentive Fee will be refunded to the applicant. The MTBA application for the development may not be resubmitted in 2018, and all individuals involved in the owner or developer, as determined by THDA, in its sole discretion, will be prohibited from applying for MTBA until January 1, 2020

J. Monitoring Fee

1. For Developments that receive MTBA and noncompetitive Low Income Housing Tax Credit, Monitoring Fees shall be as prescribed in the applicable Tax Credit Qualified Allocation Plan.
2. For Developments that receive MTBA, but do not receive Low Income Housing Tax Credit, Monitoring Fees shall be as follows:
 - a. When the development is placed in service, a compliance Monitoring Fee is due to THDA, payable in the form of a certified check (this fee also applies to USDA/RD [formerly FmHA] developments). The Monitoring Fees are six hundred dollars (\$600) per low-income unit in the Development.
 - b. Owners seeking to correct non-compliance will be charged additional fees to cover additional costs which may be incurred by staff to correct the non-compliance issue.
 - (i) Reinspection of a file: two hundred dollars (\$200)
 - (ii) Reinspection of a property:
 - (iii) Standard mileage rate in effect by the State of Tennessee at the time of the reinspection from Nashville to the property and back to Nashville;
 - (iv) applicable state allowed per-diem for one staff person;
 - (v) Lodging expenses as allowed under State of Tennessee travel regulations; and
 - (vi) Any other expenses incurred by THDA relating to the property reinspection.
 - c. Fees will be due to THDA prior to issuance of reinspection findings.
 - d. **At any time following the fifth year of monitoring for each development, THDA will evaluate the need for an additional Monitoring Fee. THDA may, at its sole discretion, charge a single additional Monitoring Fee not greater than the initial Monitoring Fee stated above. THDA will charge this additional Monitoring Fee only if the costs of monitoring for Tax Credit compliance, in the aggregate, appear likely to exceed the aggregate amount of initial Monitoring Fees collected. A decision by THDA to charge any such additional fee shall not constitute an amendment to this Program Description.**
 - e. Owners who fail to submit the required Owner's Annual Certification of Compliance forms and supporting documentation by the date required by THDA will be charged a late fee of one hundred dollars (\$100) per month, for each month, or portion of a month, until the Certification and supporting documentation is received and considered satisfactory by THDA. This fee will be due upon submission of the forms and/or supporting documentation required. Receipt of Certification without the applicable late fee will be considered incomplete.

K. Modification Fee

1. The Modification Fee specified in this Part IX-I shall only apply to proposed developments utilizing MTBA **without** noncompetitive Tax Credits. Proposed developments utilizing MTBA **with** noncompetitive Tax Credits are subject to the

Modification Fee specified in Part XV-D of the Low-Income Housing Tax Credit 2018 Qualified Allocation Plan.

2. A **nonrefundable** modification fee in an amount equal to the greater of seven hundred and fifty dollars (\$750) or thirty five one-thousandths of one percent (0.035%) of the total amount of MTBA specified in the Firm MTBA Commitment Letter must be received by THDA **prior to any evaluation of proposed modifications or changes.**
3. Payment of this fee does not guarantee approval of proposed changes or modifications.

L. Extension Fee

1. An Extension Fee of one thousand five hundred dollars (\$1,500) must be submitted to THDA prior to any consideration of a request pursuant to Part VIII-A-2-d.

Part X: Final Application

After all units in the development are placed in service, a Final Application must be submitted prior to any refund of the Commitment Fee pursuant to Part IX.

Part XI: Application for Low-Income Housing Tax Credits

If the development also seeks non-competitive Low-Income Housing Tax Credit (“non-competitive Tax Credit”), a separate application must be submitted to Tennessee Housing Development Agency to request the non-competitive Tax Credit. **Receipt of authority to issue tax-exempt bonds does not guarantee receipt of non-competitive Tax Credit.** THDA retains the authority to determine eligibility to receive non-competitive Tax Credit and the amount of non-competitive Tax Credit to be allocated to the development, up to the maximum amount eligible with tax-exempt financing. Any development seeking non-competitive Tax Credit must apply for non-competitive Tax Credit under the applicable Tax Credit Qualified Allocation Plan in the same calendar year in which the tax-exempt bonds are issued. THDA will conduct an eligibility and scoring review under the applicable Tax Credit Qualified Allocation Plan with regard to a non-competitive Tax Credit application submitted in conjunction with an application for MTBA within forty-five (45) days of THDA’s receipt of such non-competitive Tax Credit application. Any applicant for non-competitive Tax Credit will be subject to all fees and requirements stated in the applicable Tax Credit Qualified Allocation Plan, including monitoring fees.

Notwithstanding the provisions of Part XII, the maximum amount of annual noncompetitive Tax Credit that may be allocated to a single development shall not exceed three million dollars (\$3,000,000). In making this determination, THDA will consider the physical location of developments; the relationships among owners, developers, management agents, and other development participants; the structure of financing; and any other information which might clarify whether applications reflect a single development or multiple developments.

If a development is the subject of a pending **competitive** 2018 Tax Credit application and is the subject of an application under the 2018 Multifamily Tax-Exempt Bond Authority Program Description, the issuance of a Firm MTBA Commitment Letter in accordance with Part VIII-A-2 of this Program Description shall constitute the withdrawal of the **competitive** Tax Credit application.

The maximum obtainable rents supported by the market study will be expected to support reasonable operating expenses and maximum mortgage debt service prior to Tax Credits

filling any financial “gaps”. This may require that the development obtain additional financing from other sources over and above the maximum amount of MTBA or non-competitive Tax Credit committed to the development by THDA.

Part XII: Controlling Document

In the event of a conflict between this 2018 Tax-Exempt Multifamily Bond Authority Program Description and the Low-Income Housing Tax Credit 2018 Qualified Allocation Plan, the Low-Income Housing Tax Credit 2018 Qualified Allocation Plan shall be the controlling document with regard to applications for non-competitive Tax Credit.