Low Income Housing Tax Credits (LIHTC)

Program Factsheet

Program Summary	The 1986 Tax Reform Act created the Low Income Housing Tax Credit (LIHTC) as an incentive to encourage the construction and rehabilitation of rental housing for lower-income households. The program offers credits on federal tax liabilities for 10 years. Individuals, corporations, partnerships and other legal entities may benefit from tax credits, subject to applicable restrictions. Annually, the U.S. Department of Treasury allocates tax credits to each state. Federal law limits the limits the annual per capita tax credit issued to each state to $2.15 in 2011 and indexed to inflation thereafter. Oregon Housing and Community Services (OHCS) administers' the tax credit program for the state of Oregon. Tax credits offer direct federal income tax savings to owners of rental housing developments who with a developer are willing to set-aside a minimum portion of the development's units for households earning 60 percent or less of gross area median income. Developers of tax credit developments typically sell the credits to investors who are willing to provide capital in return for the economic benefits (including tax credits) generated by the development. The amount of tax credit an owner receives is determined at the time the tax credit is allocated. The tax credit amount is based on several factors including depreciable development costs, type of development (new construction, rehabilitation or acquisition), and percentage of housing units designated for low-income use, the allocating agency's evaluation and development financing. Tax credits may be claimed annually for a 10 year period. In order to claim the tax credit, the owner and developer must comply with governing rules and regulations (Section 42 of the Internal Revenue Code as amended) throughout the applicable compliance period. **CONTACT:** Angela Parada, Tax Credit Programs Manager Phone: 971.273.9780 Email: Angela.Parada@oregon.gov

Eligible Requirements	All type of affordable rental housing developments qualify under the tax credit guidelines; new construction, acquisition with substantial rehabilitation of existing properties. Substantial rehabilitation, as defined by the IRS, is projects where the rehabilitation costs must be $600 or more per unit, or 20% of eligible basis, whichever is lower. At a minimum a development must: • Set-aside a minimum of 20 percent of the units as rent restricted and available to tenants whose incomes do not exceed 50 percent of the area median income, or • Set-aside a minimum of 40 percent of the units as rent restricted and available to tenants whose incomes do not exceed 60 percent of the area gross median income. Income limits are defined annually by the U.S. Department of Housing and Urban Development (HUD) based on family size and development location. As the family size increases or decreases, the maximum qualifying income allowances increase or decrease accordingly. The development's low-income units must have gross rents, including allowances for tenant-paid utilities that do not exceed 30 percent of qualifying income limitations. Maximum gross rents allowed under the program vary by area and the number of bedrooms in a unit. These rents are based upon the annual income limits published by HUD. The development must be maintained as low income housing for an initial 15 year compliance period and be subject to an extended use period of 15 additional years or more, depending upon the owner's commitment, and Department policy.
Tax Credit Allocation / Application Process	Prior to allocating tax credits, each state is required to develop a Qualified Allocation Plan (QAP). Oregon's allocation plan provides both a competitive and non-competitive process for awarding tax credits to developments that address the state's low-income housing needs. The plan also includes other selection criteria, such as resident services, site amenities and unmet housing needs. Federal regulations require at least 10 percent of a state's tax credits be set-aside for qualified nonprofit organizations that are tax-exempt under Section 501 (c)(3) or 501 (c)(4) of the Internal Revenue Code. Providing low-income housing must be one of the organizational purposes of the qualified organization, and among other things, must also have ownership and materially participate in the construction and management of the development during the applicable compliance period.

Competitive Credits	Applications for competitive credits are accepted as part of the department's Notice of Funding Availability (NOFA) application process. The NOFA awards credits that are subject to the state cap and has specific timelines for applications. Please contact OHCS for more information regarding the NOFA process.
Non-Competitive Credits	Developments that have 50 percent or more of the aggregate basis of buildings and land financed by tax-exempt bonds may receive a 30 percent present value credit if they qualify under the program regulations and meet the requirements of the state's QAP. Credits received by these developments do not reduce the state's annual allocation authority. The authority is capped by the bond limits instead.
Maximum Tax Credit Eligibility	The maximum annual tax credit available to a development is calculated using an annual tax credit percentage. That percentage provides a "present value" of either 30 to 70 percent of the low-income units qualified costs. Development costs eligible for a 30 percent present value credit include: • Qualified acquisition costs of developments that will be substantially rehabilitated. • Qualified costs of new construction and substantial rehabilitation developments that will be financed with tax-exempt bonds or subsidized federal loans. Development costs eligible for a 70 percent value credit include qualified costs of new construction and substantial rehabilitation that have no federal financing subsidies, subject to some exemptions. Over the 10 year credit period, the annual rate for a 30 percent value credit is approximately four percent; the annual rate for a 70 percent present value credit is approximately nine percent. Maximum tax credit eligibility is determined by multiplying the applicable annual percentage rate (approximately four to nine percent) by the eligible costs of development, acquisition, and rehabilitation costs attributable to the designated low-income units in the development.
Application	The tax credit award process consists of three separate application procedures. Each process requires a separate financial evaluation by the department. <u>Initial Request:</u> The initial request is through the OHCS allocation process or its non-competitive equivalent. This application determines the amount of tax credits allowable to reserve for each project, subject to meeting required conditions of award.

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	Carryover Allocation Request: If a project that has received a reservation of credits will not be completed during the year the tax credits are reserved, a Carryover Allocation Request must be prepared. A tax credit recipient must be able to provide documentation showing: the project has expended at least 10 percent of project costs by the end of the year following the year in when the credit has been requested; and the application has site control. The application must be revised, if necessary, to reflect the current financial situation (cost increase or reduction). A Carryover Allocation Agreement is sent to the Internal Revenue Service (IRS) for their records and a copy is given to the applicant. Placed in Service Request: When a project is completed (either during the year the tax credit is awarded or within 24 months of the Carryover Allocation Agreement), the tax credit recipient must provide final documentation of costs and when the project was Placed in Service. This application request must include a final, as-built, cost verification, syndication and/or limited partnership agreement, property management plan, and certification of all subsidies, and a CPA cost certification to verify expenditures eligible for credits. Key documents in the process include: - Offer of Reservation: Once a project has been reviewed and a tax credit amount is determined, an Offer of Reservation, stating the proposed amount of tax credit, is submitted to the applicant. - Reservation of Extended Use Agreement: The applicant is required to pay a reservation charge of five percent of the annual tax credit amount. Once the reservation charge has been received, the department and the applicant enter into a binding commitment that reserves the tax credit allocation and guarantees the project will be maintained as low-income housing for at least 30 years. - Carryover Allocation: If a project will not be able to complete construction during the year that tax credits were allocated, then a Carryover Allocation Request must be prepared. The applicant must submit an updated application, provide evidence that at least 10 percent of total project costs will be expended by the following year, and provide proof of site control. - Declaration of Land Use Restrictive Covenants: Once the project is placed in service but before the department sends final tax documents to the IRS, the applicant must enter into a Declaration of Land Use Restrictive Covenants. This document must be recorded as a deed

	restriction on the property and proof of recording must be submitted to the department. - Form 8609: This form is the final document submitted to the IRS showing the actual amount allocated for each project. There must be a separate 8609 form for each building that is placed in service. The 8609 form allows the credits to be claimed on tax returns.
For more information, please contact:	**Angela Parada**, Tax Credit Programs Manager Phone: 971.273.9780 Email: Angela.Parada@oregon.gov