

OREGON HOUSING AND COMMUNITY SERVICES

501c3 Bonds



November 2024

Product Overview + Implementation Next Steps

Today's Agenda



Objectives + Process Agreements

What are 501 c3 bonds?

Why 501 c3 bonds?

Eligibility – with Orrick

ORCA Process

Questions

Today's Objectives



🕒 **Inform** partners re: 501 c3 bonds eligibility and application process

🕒 **Gather** external feedback about ORCA application process and how this tool might be used

🕒 **Consult** partners to answer outstanding questions and discuss areas of clarification

🕒 **Share** implementation progress, current timelines, and next steps

Process Agreements

- **Help** foster an inclusive environment
- **Stay** engaged
- **Speak** your truth responsibly
- **Listen** to understand
- **Be willing to** do things differently and experience discomfort
- **Expect** and accept non-closure



What are 501c3 bonds?

- Like other tax-exempt bonds, 501c3 bonds benefit borrowers because interest on 501c3 bonds is tax-exempt, resulting in a lower cost of funds and the borrower paying less interest on these bonds, comparable to taxable bonds or bank loans.
- Under Oregon law, a proposed project must primarily serve individuals and families earning at or below 120% AMI; Federal tax law imposes additional limits based on the charitable or exempt purpose of the 501c3 bond borrower.
- Potential uses for 501c3 bonds:
 - *Projects that are eligible for LIFT or PSH*
 - *Preservation, acquisition, and market-to-affordable conversion projects*
 - *Mixed-income projects, workforce or middle-housing projects*
- Bond issuance process is similar to PAB associated with 4% LIHTC, with some additional eligibility requirements, but without an award of PAB volume cap.

Why 501c3 bonds?

Sustainability. OHCS' approach focuses on offering new lending tools and considering the most effective deployment of current resources.

- Development resources are constrained, including federally-allocated volume cap for 4% LIHTC
- Resource that may be used for development up to 120% AMI
- Other projects down the line: direct lending (Elderly & Disabled Bonds, HUD Risk-share Bonds)



501(c)3 Bond Eligibility, Part One (Orrick)

501(c)(3) bonds are tax-exempt qualified private activity bonds issued by a state or local government, the proceeds of which are used by a 501(c)(3) organization to further its mission and exempt purpose

Eligible borrowers include nonprofit corporations recognized by the IRS as a 501(c)(3) organization

Note that not all nonprofit organizations are 501(c)(3) organizations - a 501(c)(3) organization can issue tax-exempt bonds only if the use of the proceeds is in furtherance of its charitable/exempt purpose

LLCs typically do not qualify as 501(c)(3) organizations, but 501(c)(3) organizations may form one or more single member LLCs (SMLLCs) for which the 501(c)(3) organization is the sole member to act as the borrower. SMLLCs that do not elect other tax treatment are disregarded entities for this purpose



501c3 Bond Eligibility, Part Two (Orrick)

To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization:

- Must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3)
- None of its earnings may inure to any private shareholder or individual
- May not attempt to influence legislation as a substantial part of its activities
- May not participate in any campaign activity for or against political candidates
- Must not be organized or operated for the benefit of private interests, and
- No part of a section 501(c)(3) organization's net earnings may inure to the benefit of any private shareholder or individual.

501c3 Bond Eligibility, Part Three (Orrick)

Ownership Test – all property financed by the net proceeds of a 501(c)(3) bonds must be owned, at all times while the bonds are outstanding, by either a 501(c)(3) organization or a state or local governmental unit

Prohibited Private Business Use Test – private use, payment and security > 5% (to put it another way, these costs must be below 5% to be eligible)

501c3 bond projects are subject to:

- * TEFRA Notice, Hearing and Approval;
- * 95/5 Good/Bad Costs Tests;
- * 2% COI Limit;
- * Subject to Qualified Management Contract requirements; and
- * Donnelly Amendment limitations

ORCA Process



Phase 1: Apply for 501 c3 bonds mainly paired with other OHCS resources (two-project limit per phase does apply). If only applying for 501 c3 bonds, must still go through the standard ORCA process (two-project limit does not apply).

Ready in early 2025

Potential Phase 2: If there is demand from sponsors, consider shortening the ORCA process for 501 c3 bond-only applications. This will need to go to Housing Stability Council for discussion and approval



Questions

Thank You!

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