



# Texas Department of Housing & Community Affairs

## Multifamily Finance Division

### October 17, 2017



# Low Income Housing Tax Credit Program (“LIHTC”)

- ❖ Provides a dollar-for-dollar tax credit for affordable housing investments.
- ❖ Provides funding to construct or rehabilitate a development. It is not an operating subsidy.
- ❖ Equity is provided by investors.
- ❖ Tax benefit goes to investors for federal taxes; no direct effect on state and local taxes.
- ❖ Authority to allocate provided by IRS



# LIHTC

## ❖ **Non-Competitive LIHTC**

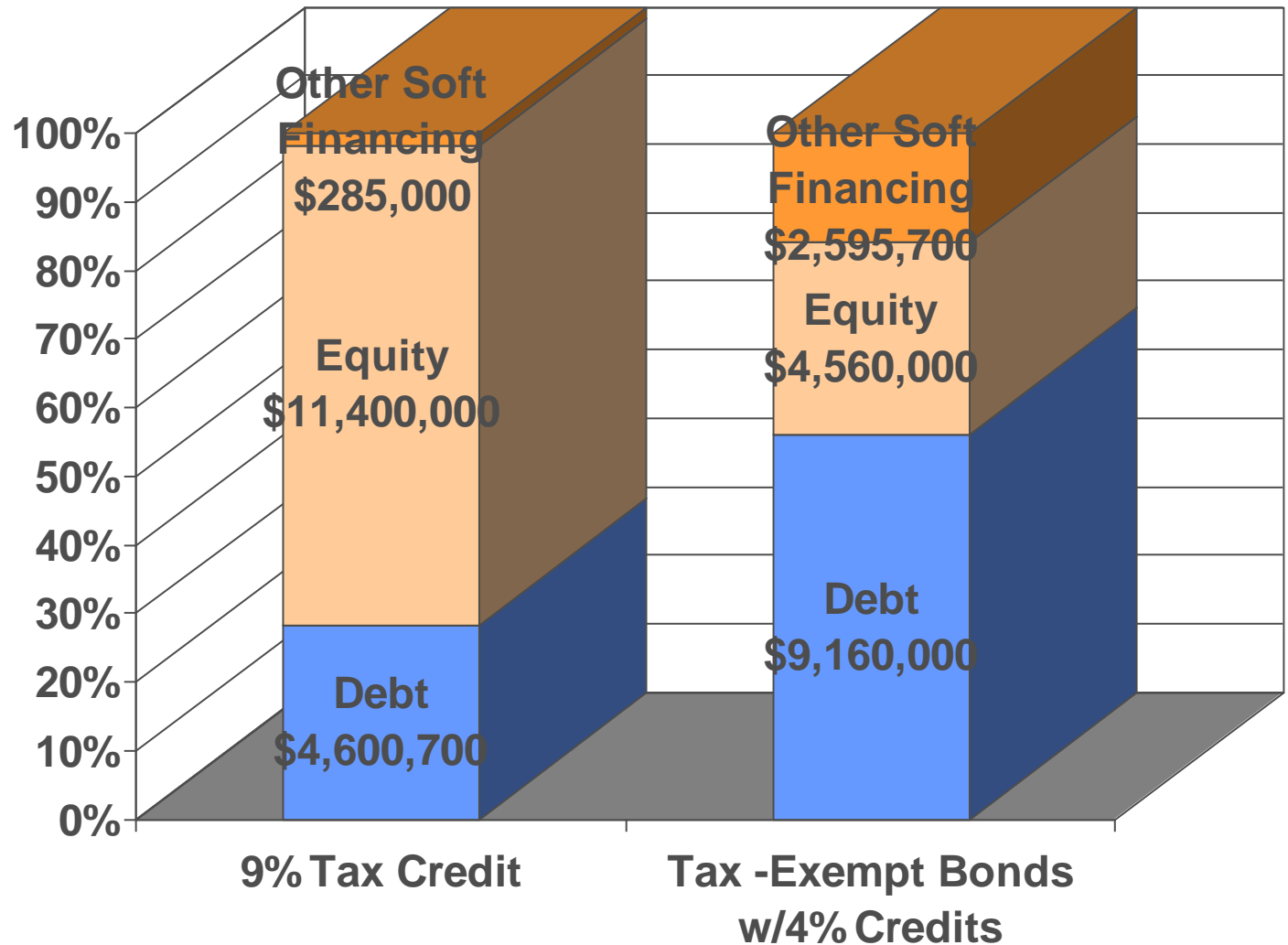
- ❖ “4%” Tax Credits used in conjunction with Private Activity Bond financing
- ❖ No annual limit to the state
- ❖ Typically provides ~30% equity to a Development

## ❖ **Competitive LIHTC**

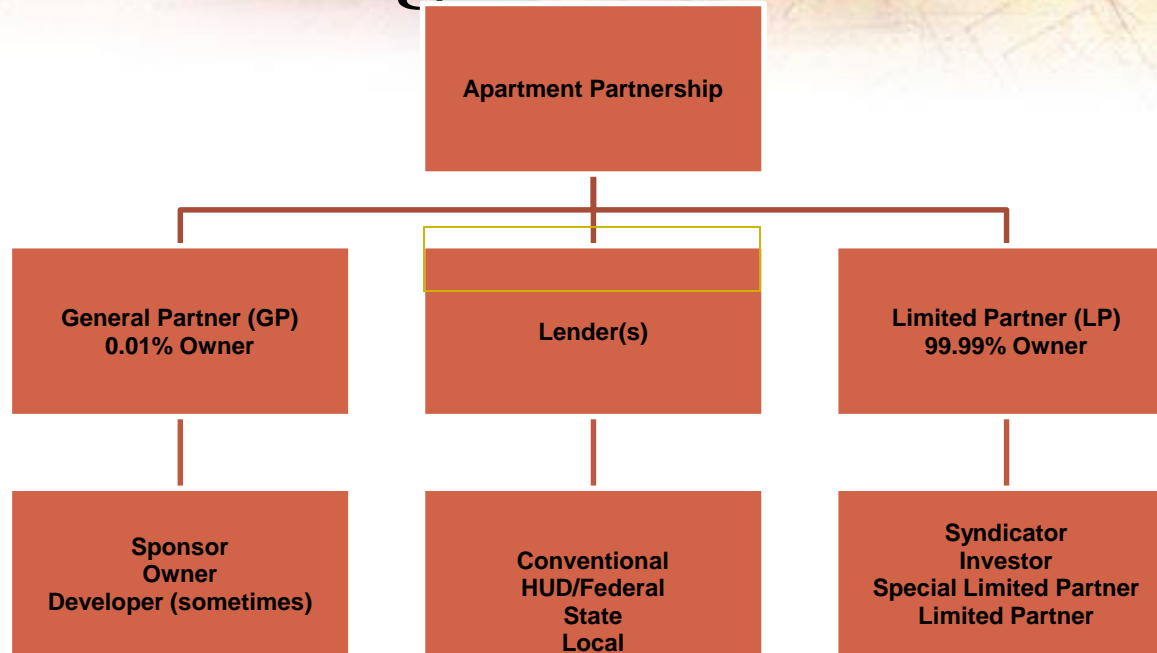
- ❖ Competitive application process
- ❖ Annual limit to the state (“ceiling”)
- ❖ Typically provides ~70% equity to a Development



# Potential Financing Structures for a 200 Unit Urban Development



# Understanding Tax Credit Financing



**•ALL DAY-TO-DAY  
CONTROL**

**•NO DAY-TO-DAY  
CONTROL BUT CAN  
FORECLOSE AND  
REMOVE  
PARTNERSHIP**

**•NO DAY-TO-DAY  
CONTROL BUT CAN  
REPLACE GP**



# How the Sources of Funds Flow

- ❖ General Partner/Developer requests credits  
(Partnership is a newly created entity for the sole purpose of receiving credits).
- ❖ State allocates credits to GP/Partnership.
- ❖ Lender provides money to the partnership in the form of construction/permanent financing. In return partnership gives lender a deed of trust.
- ❖ The partnership sells credits to Limited Partner/syndicator.



# How the Sources of Funds Flow

cont.

- ❖ The investor and syndicator purchase credits and provide equity to the partnership to construct development.
- ❖ TDHCA sends IRS Form 8609 to each awarded Development Owner. This form actually provides the allocation.
- ❖ By December 31, TDHCA submits IRS Form 8610, Annual Low-Income Housing Credit Agencies Report, and a copy of each Form 8609 sent to Development Owners.



# **Housing De-Concentration Factors**

**10 TAC §11.3 (QAP)**

**(a) Two Mile Same Year Rule (§2306.6711(f))**

county with a population greater than one million

**(b) 2x Per Capita (§2306.6703(a)(4))**

prior approval of the Development from the  
Governing Body

**(c) One Mile Three Year Rule (§2306.6703(a)(3))**

county with a population greater than one million





# **Housing De-Concentration Factors**

10 TAC §11.3 (QAP)

cont.

## **(d) Limitations on Developments in Certain Census Tracts**

prior approval of the Development from the Governing Body

## **(e) Additional Phase**

Existing Development has maintained at least 90% occupancy for a minimum six (6) month period

## **(f) Proximity of Development Sites**

highest scoring application stays in **(proposed)**.

# Competitive LIHTC Scoring Items

Tex. Gov't Code §2306.6710(b)(1)

“Above the Line”

| Scoring Item                               | Point Value   | Statutory Rank | Notes   |
|--|---------------|----------------|---|
| Financial Feasibility                      | 18 points max | 1st            |   |
| Local Government Support                   | 17 points max | 2nd            |   |
| Income Levels of Tenants                   | 16 points max | 3rd            |   |
| Size and Quality of Units                  | 15 points max | 4th            |   |
| Rent Levels of Tenants                     | 13 points max | 5th            | 13 points max for Supportive Housing; 11 points                             |
| Cost of Development per Square Foot        | 12 points max | 6th            | Supportive Housing NRA can include up to 50 sq.ft. of common area per unit. |
| Tenant Services                            | 11 points max | 7th            | 11 points max for Supportive Housing; 10 points                             |
| Declared Disaster Area                     | 10 points     | 8th            |   |
| Quantifiable Community Participation (QCP) | 9 points max  | 9th            | 2 point incentive for change from opposition to support or neutrality       |
| Community Support by State Representative  | 8 points max  | 10th           |   |

# Competitive LIHTC Scoring Items

Tex. Gov't Code §2306.6725(a)

“Below the Line”

| Scoring Item                                       | Point Value  | Notes                                       |
|--|--------------|---|
| Unit Sizes   | 8 points     |   |
| Unit and Development Features                      | 7 points max |   |
| Opportunity Index                                  | 7 points max |   |
| Concerted Revitalization Plan                      | 7 points max | Score for Opportunity Index precludes score |
| Pre-application Participation                      | 6 points     |   |
| Underserved Area                                   | 5 points max |   |
| Proximity to the Urban Core                        | 5 points     |   |
| Historic Preservation                              | 5 points     |   |
| Input from Community Organizations                 | 4 points max | Full score for QCP precludes score here.    |
| Leveraging of Private, State and Federal Resources | 3 points max |   |
| Tenant Populations with Special Housing Needs      | 2 points     |   |
| Extended Affordability Period                      | 2 points     |   |
| Commitment of Development Funding by LPS           | 1 point max  |   |
| Sponsor Characteristics                            | 1 point      |   |
| Right of First Refusal                             | 1 point      |   |
| Funding Request Amount                             | 1 point      |   |



# **Local Government Scoring Items**

## **(1) Local Government Support (10 TAC 11.9(d)(1))**

Up to 17 points for a resolution(s) voted on and adopted by the city and/or county

## **(2) Commitment of Development Funding by Local Political Subdivision (§2306.6725(a)(5))**

One point for a commitment of Development funding from the city or county

## **(3) Concerted Revitalization Plan (CRP, TIRZ, etc)**

Four points for a letter about CRP area improvements

Two points for a resolution for contributing to CRP





# Local Government Threshold Issues

10 TAC §10.2(e):

- In providing resolutions regarding housing de-concentration issues, threshold requirements, or scoring criteria,, **municipalities and counties should consult their own staff and legal counsel as to whether such resolution will be consistent with Fair Housing laws as they may apply.**
- Resolutions are due with the Applications: by 5:00 p.m. Austin local time on March 1, 2018.
- Zoning: letter if no zoning, copy of ordinance if in effect, request for zoning change.
- Ordinances: parking, railroad quiet zone



# Proposed Rule Changes re LPS

- **Educational Quality** scoring is out.
- **Underserved Area:** Population threshold for 5-point item dropped from 300,000 to 150,000.
- **Proximity to the Urban Core:** lower population threshold dropped from 300,000 to 200,000
  - Place with a population over 200,000
  - Site must be within 4 miles of the main municipal government administration building if the population is more than 500,000 or more
  - Site must be within 2 miles of the main municipal government administration building if the population 200,000 - 499,999.
- **Commitment of Funding by LPS:** “de minimis” is out; \$500 for Urban and \$250 for Rural.



# Proposed Rule Changes re LPS

- **CRP:** Plan must be current and must run for at least three years after Application.
  - **If plan includes more than one distinct area within the city or county, a resolution may be provided for each Development in its respective area.**
- **Undesirable Site Features (10.101(a)(2):** (B) Development Sites located within 300 feet of a solid waste facility or sanitary landfill facility or illegal dumping sites (as such dumping sites are identified by the local municipality);

# Legal References for Programs

- **Tax Reform Act 1986**
- **§42, Internal Revenue Code**
- **§2306, Texas Government Code**
- **10 TAC Chapter 10 (Uniform Multifamily Rules)**
- **10 TAC Chapter 11 (Qualified Allocation Plan)**
- **§142, Internal Revenue Code**
- **§1371 and § 1372, Texas Government Code**
- **10 TAC Chapter 12 (Bond Rules)**





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