

# Combining Affordable Housing Funding Sources

Prepared by

Dan Landes, Managing Developer, Common Ground (Seattle)

for

AIDS Housing of Washington  
2014 East Madison, Suite 200  
Seattle, WA 98122  
(206) 322-9444  
info@aidshousing.org  
www.aidshousing.org



**October 2005**

# Introduction

Gone are the days when one federal program would finance the entire development of an affordable housing project. Today, leverage is the name of the game. In an effort to stretch their limited resources, public and private funders are asking developers to leverage their funding with other sources. It is not unusual for an affordable housing developer to use up to ten different sources of finance in one project.

As the number of funding sources in a project grows, so does the complexity of developing a project. Each source comes with its own set of rules, and often the rules of one funding source are not compatible with the rules of another. This guide was designed to help affordable housing developers identify some of the issues they may encounter when trying to combine different funding sources. Some sources are easy to combine, while others can be quite difficult. There are some funding combinations that are impossible. Knowing and resolving the issues in advance is the key to combining any two (or more) funding sources.

The chart on the following page shows all of the combinations of the sources in the left column and the sources in the top row. Every cell in the chart contains either an “OK” or a number. If it contains “OK”, it means there should be no major issues in combining the sources. The numbers refer to the comments below the chart, where the challenges and issues of the various combinations are discussed. A glossary is included at the end, followed by a listing of links to regulations and other information available online related to the funding sources.

For a comprehensive overview of financing sources for housing development – capital, operating, and services – please refer to the Corporation for Supportive Housing’s online ***Financing Supportive Housing Guide***, available at <http://www.csh.org/financing>. Most of the federal programs referenced in this document are described in detail in this online resource, with special attention to housing homeless and special needs populations in permanent supportive housing.

## **Please Note:**

This guide, which was written in 2004, is intended to be an introduction, not a comprehensive analysis. It should not be regarded as a substitute for experienced legal counsel. When attempting a project that involves hard-to-combine sources, it is extremely important to utilize an attorney who is familiar with the regulations of the specific funding programs.

The above caution becomes even more important with the passage of time. The requirements and conditions applicable to the various funding sources change frequently, and the possibilities described in this document may no longer be available or, perhaps even more significant, there may now be possibilities for combinations that this document fails to recognize because they were not possible when it was prepared.

**Please then, take this document as an overview of how to go about looking at the possibilities, not determining the final answers. Employ experienced counsel to review the current state of the law; do not assume that what was possible in 2004 continues to be so; and more important, do not ignore a potential combination just because two years ago it was not possible – conditions may have changed.**



## **1. FHA Multifamily Mortgage Insurance with other public financing**

FHA Multifamily Mortgage Insurance (e.g., Sections 207(m), 221(d)(3), 221(d)(4), 223(f), and 232) alone does not assure affordability, so it is often combined with other public financing in projects that target lower incomes. FHA multifamily mortgage insurance may be combined with other public subsidy as long as the subsidy is either in the form of a grant or subordinate financing. FHA has been reluctant to agree to regulatory agreements that limit the income and rents of tenants that would survive foreclosure.

## **2. Emergency Shelter Grant with private debt**

Emergency Shelter Grant (ESG) assistance is rarely combined with private debt. Operating assistance under the ESG Program may not be used to make mortgage payments of any kind, and the income a shelter can otherwise generate is usually insufficient to pay back debt.

## **3. Emergency Shelter Grant with funding for permanent housing**

Because ESG can only be used for emergency or transitional housing, it cannot be used in conjunction with funding for permanent housing, including FHLB AHP, HOPE VI, public housing, RHS Sections 514/516, 515, 521 and 538, Section 202/811, Section 8 Mod Rehab SRO and Shelter Plus Care.

## **4. Historic Tax Credits with grants**

Grants may be used on projects receiving historic tax credits, but care must be taken in structuring this combination. Grant income (from both federal and non-federal sources) to a tax credit partnership or LLC is usually considered taxable income and eligible costs funded with it may be included in historic tax credit basis. Grants made for the promotion of the general welfare (Rev. Rul. 76-395) and grants received under the National Historic Preservation Act (Rev. Rul. 82-195) are not considered taxable income and are not includable in basis. If a nonprofit general partner/managing member receives the grant, the nonprofit can loan the proceeds to the partnership/LLC and avoid the taxable income and still use the proceeds to fund costs in basis. Nonprofits wishing to make this kind of loan should work with a tax attorney in structuring the loan to avoid having it recharacterized as a grant or smaller loan.

## **5. HOME with CDBG**

HOME may be used in conjunction with CDBG on a project, as long as the project or activity meets the eligibility requirements of both sources. There are a few areas where HOME and CDBG regulations differ, including the threshold for requirement of Davis-Bacon wage rates (12 units for HOME, 9 for CDBG). HOME income limits are lower than CDBG, and the ongoing compliance is much more involved with HOME funding. HOME requirements apply to any unit that is funded with HOME, regardless of the activity. CDBG requirements apply to any activity (e.g., acquisition) that CDBG funds, across all units. CDBG cannot count as match for the HOME funds.

## **6. HOME with Emergency Shelter Grant**

HOME and ESG are rarely combined on the same project. HOME program assistance cannot be used on emergency shelter beds, although it can be used for transitional housing with leases (HUD Notice CPD 01-01). ESG funds do not count as match for HOME funds.

## **7. HOPE VI/Public Housing with CDBG**

CDBG funds may be used on a HOPE VI or public housing project, and they are often used to help fund the infrastructure redevelopment of HOPE VI projects. The mixed-finance approval and subsidy layering discussed in number 8 apply. CDBG funds cannot be used to construct new housing units, so they are typically only used for off-site development costs. CDBG funds can trigger Section 104(d) for an entire project, which requires the one-for-one replacement of any low/moderate income units demolished. This may be an issue in some HOPE VI projects.

## **8. HOPE VI/Public Housing with other capital financing**

Almost all HOPE VI projects are financed using other sources of public and private financing. To do mixed-finance public housing, public housing agencies must submit an application for approval of the financing plan from HUD. Where public sources are used, a subsidy layering review will be conducted. The subsidies from Annual Contribution Contracts (public housing operating subsidies) cannot be used to service debt, so debt financing is only feasible on non-public housing units (units without the ACC).

## **9. HOPE VI/Public Housing with foundation/corporate giving**

Foundations and corporations are less likely to donate money to public entities, including Public Housing Authorities, so it is unlikely that foundation and corporate giving are utilized much by housing authorities. However, nonprofit partners in HOPE VI developments have been successful in raising funds from these sources.

## **10. HOPE VI/Public Housing with HOME**

HOME funds may not be used for the rehabilitation or modernization of existing public housing units currently under an annual contributions (public housing operating subsidy) contract (24 CFR 92.214). However, HOME funds may be used in conjunction with HOPE VI or public housing development funds to create either replacement units or new public housing units. For incremental (new) units, the public housing authority must obtain HUD approval before using HOME funds, and at least 50% of the total development cost must be funded by public housing capital funds. HOME funds can also be used in conjunction with HOPE VI to develop homeownership opportunities and homebuyer assistance programs.

On units receiving both HOME and public housing subsidy, both HOME regulations and public housing regulations must be followed. HOME funds trigger Section 104(d) for an entire project, which requires the one-for-one replacement of any low/moderate income units demolished. This may be an issue in some HOPE VI projects. If the public housing operating subsidy is necessary to meet the HOME rent requirements, there could be issues if the operating subsidy is not renewed by the federal government at any time before the HOME compliance period is over (20 years for new construction). The Participating Jurisdiction that allocates the HOME funding must conduct a subsidy layering review to ensure that no more subsidy is invested in the project than necessary. HOPE VI and public housing funds cannot count as match for the HOME funds (HUD Notice CPD 97-08). HOME funds are not subject to the Total Development Cost limits.

## **11. HOPWA, SHP and Section 8 with Emergency Shelter Grant**

In a transitional housing project, ESG can be combined with HOPWA, SHP or project-based Section 8 assistance. Subsidy layering review would be required. Project-based Section 8 assistance would require at least a one-year lease.

## **12. HOME with other governmental assistance**

HOME funds are often combined with other governmental assistance in the finance of affordable housing. When HOME funds are used in conjunction with other federal, state or local governmental assistance, the Participating Jurisdiction that allocates the HOME funding must conduct a subsidy layering review to ensure that no more subsidy is invested in the project than necessary (HUD Notice CPD 98-01).

### **13. Low-Income Housing Tax Credits with CDBG**

Community Development Block Grants are considered federal grants and would be subtracted from the eligible basis of a LIHTC project, reducing the amount of tax credit equity in the project. However, if the CDBG funds are loaned to the project (even at below market rates), they are not considered federal grants and do not affect the LIHTC basis or equity in a project. The loan must be a bona fide loan with the realistic expectation of repayment and no forgiveness options.

Depending on the size of the project, CDBG funds may trigger many additional federal requirements that the LIHTC do not, including Davis-Bacon wage rates, public bidding, Uniform Relocation Act, National Environmental Policy Act and lead-based paint regulations.

### **14. Low-Income Housing Tax Credits with Emergency Shelter Grants**

Low-Income Housing Tax Credits may not be used to fund emergency shelter, although they can be used for transitional housing. Tenants of LIHTC units must have at least a 6-month lease. Otherwise, ESG funding is treated like other federal grants (See number 20 below).

### **15. Low-Income Housing Tax Credits with FHA mortgage insurance and RHS loan guarantees**

FHA mortgage insurance and RHS Rural Rental Loan Guarantee Program do not alone generate below-market interest rates, so their inclusion in LIHTC projects does not affect basis. However, the use of both programs triggers federal requirements that otherwise would not apply in LIHTC deals, including special lead-based paint requirements in both programs and Davis-Bacon wage rates with FHA.

### **16. Low-Income Housing Tax Credits with FHLB Affordable Housing Program**

The Federal Home Loan Bank Affordable Housing Program (AHP) is often used on Low-Income Housing Tax Credit projects. AHP is not considered a below-market federal loan or federal subsidy when used in conjunction with LIHTC, so it does not automatically affect tax credit basis (Reg § 1.42-3). However, an AHP grant to a tax credit partnership/LLC would be treated similarly to a foundation/corporate grant discussed in number 17. For this reason, AHP grants are usually loaned by the nonprofit recipient to the partnership/LLC at a nominal interest rate or treated as an equity contribution from the nonprofit.

### **17. Low-Income Housing Tax Credits with grants from foundations and corporations**

Grants to tax credit partnerships and LLCs are generally considered taxable income. They can be included in basis, but the partnership/LLC will have to pay income tax on the grant amount. In rare circumstances grants can avoid the characterization as taxable income, but they must then be removed from basis. Grants made to nonprofit general partners/managing members can be loaned by the nonprofit to the partnership/LLC, and these loans can be included in basis.

### **18. Low-Income Housing Tax Credits with Historic Tax Credits**

In historic structures, it is very common to combine Low Income Housing Tax Credits with Historic Tax Credits. When they are used together, the amount of Historic Tax Credits allocated to the residential portions of a project is subtracted from the eligible basis for LIHTC. Although this reduces the amount of LIHTC equity in the project, the equity from the Historic Tax Credits will more than make up for this reduction. Many (although not all) investors will invest in both LIHTC and Historic Tax Credits, which can help simplify the combining of the two sources.

## **19. Low-Income Housing Tax Credits with HOME**

Low-Income Housing Tax Credits are often used in conjunction with HOME funding, but this combination does have some consequences. HOME funds may be considered federal subsidies when used with LIHTC, and thus reduce the amount of equity the project receives. To avoid this problem, either HOME funds must be loaned to the project at AFR, or at least 40% of the units in the project must be occupied by households earning less than 50% of the area median income. If the HOME funds are loaned at AFR, it must be a bona fide loan with the realistic expectation of repayment and no forgiveness options.

If HOME funds are loaned at below AFR and the project is located in a Qualified Census Tract or a Difficult Development Area (as designated by HUD), the project will not qualify for the 130% High Cost Area Adjustment that such a location would otherwise allow.

When HOME funds are used on LIHTC projects, the tax credit allocating agency must conduct a subsidy layering review to ensure that no more public assistance is being provided to a project than is necessary. Equity from LIHTC may not be used as HOME match.

Depending on the size of the project, HOME funds may trigger many additional federal requirements that the LIHTC do not, including Davis-Bacon wage rates, Uniform Relocation Act, National Environmental Policy Act and lead-based paint regulations.

## **20. Low-Income Housing Tax Credits with Federal Grants**

Many tax credit developers avoid the use of federal grants because of the effect it can have on tax credit equity. The amount of a federal grant for capital costs, including HOPE VI, HOPWA, public housing capital grants, and the Supportive Housing Program, must be subtracted from eligible basis for LIHTC purposes. If, however, the federal grant is loaned to the tax credit partnership or LLC at the Applicable Federal Rate, the eligible basis does not have to be reduced. LIHTC can only be combined with HOPE VI or public housing capital grants if the public housing is privately owned. LIHTC funds are not subject to the Total Development Cost limits on public housing and HOPE VI projects.

CDBG, HOME, Section 202/811 and federal rental subsidies are treated differently than other federal grants.

## **21. Low-Income Housing Tax Credits with Federal Rental Subsidies**

Many Low-Income Housing Tax Credit projects use federal rental subsidies to deepen the income targeting on the projects. The IRS has ruled that certain federal rental assistance programs may be used in conjunction with the LIHTC program without being considered federal grants. To date, the programs that have been specifically identified are the Section 8 program (T.D. 8731), public housing operating subsidies provided by public housing authorities by contract to other building owners (T.D. 8731), the McKinney Section 8 Mod Rehab SRO and Shelter Plus Care programs (Rev. Rul. 1998-49), HOPWA rental assistance (Rev. Rul. 1999-39), USDA Section 521 Rural Rental Assistance, and the Rent Supplement Payments or Rental Assistance Payments used in conjunction with FHA mortgage insurance programs, such as Section 236 (Rev. Rul. 2002-65). When public housing operating subsidies are used in LIHTC projects, none of the operating subsidy can be used to pay off deferred developer fees or to finance debt.

Under a recent notice, HUD has begun limiting the rent amounts payable under project-based Section 8 assistance in projects with LIHTC. These rents may be lower than the payment standards otherwise used by the local housing authority (HUD Notice PIH 2002-22).

Potential tax credit investors may be concerned about rental subsidy contracts that expire before the end of the 15-year LIHTC compliance period. If these rental subsidies are necessary to meet the income targeting committed to in the tax credit allocation process, investors will likely assume that the subsidies will not be renewed after expiration and require the capitalization of a large rent subsidy reserve.

## **22. Low-Income Housing Tax Credits with state and local funding**

Below market loans from state and local government can be used in conjunction with LIHTC without affecting the eligible basis, except where the original source of the state and local funds is federal (e.g., tax-exempt bonds, CDBG, HOME, etc.), in which case the rules regarding the source of funds apply. State and local grants can have the same implications as foundation and corporate grants discussed in number 17.

## **23. New Markets Tax Credits with CDBG**

Although NMTC investments could be CDBG eligible activities, the IRS has given no guidance about how the presence of CDBG funding would affect NMTC.

## **24. New Markets Tax Credits with Emergency Shelter Grant**

The temporary regulations issued for the NMTC program do not allow investments in “residential rental property,” as defined by Internal Revenue Code Section 168(e)(2)(A). In this section the definition of “residential rental property” excludes establishments where more than half of the units are used on a transient basis. Emergency shelters funded with ESG or HOPWA would not appear to be considered residential rental property, so investments in emergency shelters could qualify for NMTC.

## **25. New Markets Tax Credits with housing finance programs**

The temporary regulations issued for the New Markets Tax Credit (NMTC) program do not allow investments in “residential rental property,” as defined by Internal Revenue Code Section 168(e)(2)(A). This would generally prevent projects from using both NMTC and FHA mortgage insurance, FHLB Affordable Housing Program, HOME, HOPE VI, HOPWA (except for emergency shelters), local and state housing funds, public housing, Rural Housing Service programs, Section 202/811, and most McKinney programs (see ESG in number 24). However, in a mixed-use project where more than 20% of the income is generated from non-residential rentals, it is possible to combine NMTC with these other sources.

## **26. New Markets Tax Credits with Historic Tax Credits**

Historic Tax Credits may be used in conjunction with New Markets Tax Credits (IRS Notice 2002-64), and both credits may be claimed on the same investment.

## **27. New Markets Tax Credits with Low-Income Housing Tax Credits**

New Markets Tax Credits (NMTC) may only be used for the non-residential investments in projects, so NMTC and LIHTC could never be used to fund the same costs. Because the IRS has not yet issued specific guidance, it is unclear yet whether NMTC and LIHTC could be used together in one project, or even if they could be used together in one building where a condominium separated the residential and non-residential components into separate legal properties.

## **28. RHS Section 514/516 with debt financing**

The generous terms offered by the Section 514/516 programs make the use of other types of debt financing unattractive.

## **29. RHS Section 514/516 with special needs housing assistance**

RHS Section 514/516 programs are designed to serve farm workers and their families, so combining them with funding that targets other special needs groups is not practical. These funding sources include ESG, HOPWA, Section 202, Section Mod Rehab SRO, Section 811, Shelter Plus Care, and Supportive Housing Program. It is also unlikely that Section 514/516 funding would be used on a HOPE VI project.

### **30. Federally Subsidized Loans with Low-Income Housing Tax Credits**

A federally subsidized loan is either a debt obligation with interest that is tax-exempt or a direct or indirect federal loan with an interest rate below the Applicable Federal Rate (AFR). In addition to tax-exempt bonds (see number 55), this includes RHS Section 514 and 515 loans and HUD Section 108 loans. A building receiving a federal subsidy is only eligible for the lower 4% tax credits, unless the principal of the federal subsidy is excluded from basis or the interest rate is increased to the AFR.

### **31. RHS Section 516 with Low-Income Housing Tax Credits**

RHS Section 516 Farm Labor Housing Grants may not be used in conjunction with Low-Income Housing Tax Credits.

### **32. RHS Section 515/521 with other subsidized capital funding**

RHS Section 515 funding may be combined with other funding sources, including CDBG, FHLB Affordable Housing Program, foundation and corporate giving, historic tax credits, HOME, HOPWA, local and state government, LIHTC, private bank financing, and tax-exempt bond financing. RHS must be in first lien position if it provides more than 50% of the financing, and it prefers to have a parity lien position when providing less than 50% of the financing. RHS requires that other lenders enter into a participation (intercreditor) agreement with them on Section 515 projects. If a project is to receive Section 521 rental assistance, Section 515 participation must be at least 10% of the total development cost. Regardless of how large the RHS participation is, they require that reserves are fully funded to at least 10% of total development cost or appraised value, whichever is higher.

### **33. RHS Section 514/516 with RHS Section 515**

The Section 514/516 programs and the Section 515 program are set up to serve different populations and administered through different systems. They are generally not combined into one project.

### **34. Federal Rental Subsidies with each other**

Federal rental subsidies, including Section 8, Section 8 Mod Rehab SRO, Shelter Plus Care, HOPWA, Section 521, and public housing operating subsidies, cannot be combined on the same unit, although they could potentially be combined on different units in the same project. However, combining rental subsidies that are regulated by different rules can lead to operational challenges.

### **35. Federally subsidized loan programs with each other**

FHA multifamily mortgage insurance, Section 108 loans, and RHS Section 538 Guaranteed Rural Rental Loans are different ways of improving the terms or availability of private financing. Because they are subject to different regulations, they are administered by different departments or divisions, and because they accomplish the same thing, they are seldom used together in one project.

### **36. Section 108 Loans and Tax-Exempt Bond Financing with New Markets Tax Credits**

In Section 45(D)(i)(1), the IRS is directed to limit the availability of New Markets Tax Credits (NMTC) to investments that are subsidized by other federal tax benefits. To date, the IRS has not issued specific guidance on using NMTC with either Section 108 loans or tax-exempt bonds. However, in IRS Notice 2002-64 the IRS stated that the availability of additional federal tax benefits other than Section 42 (Low-Income Housing Tax Credits) would not limit the availability of NMTC. This would indicate that tax-exempt bond financing can be combined with NMTC.

### **37. Section 202/811 with CDBG**

When CDBG funds are used on Section 202/811 projects, HUD may reduce the amount of the Section 202/811 mortgage to the extent necessary to assure that HUD funds are not used to fund excess amenities (HUD Notice H 95-38). HUD will conduct a subsidy layering review to ensure that no more subsidy is invested in the project than necessary.

### **38. Section 202/811 with private debt**

Private debt is not typically used on a Section 202 or 811 project. Any additional financing on a Section 202/811 project must be subordinate to the HUD mortgage and cannot become due and payable until after the 40-year term of the HUD mortgage. If the Section 202/811 units are covered by a Project Rental Assistance Contract (as most are), any debt service on subordinate financing may only be paid from residual receipts with HUD approval. These conditions make it virtually impossible to underwrite private debt.

### **39. Section 202/811 with Federal Home Loan Bank**

The Federal Home Loan Bank Affordable Housing Program may be used as subordinate financing on a Section 202 or 811 project under the terms of a memorandum of understanding between HUD and the Federal Housing Finance Board (HUD Notice H 99-07).

### **40. Section 202/811 with HOME**

HOME funds may be used as secondary financing on Section 202/811 projects. Section 202/811 funds may not count as match for HOME funds, which means a third source of non-federal financing would be required on the project. Section 202/811 project sponsors using HOME funds must request a waiver from the HOME Program rent requirements from HUD's Office of Community Planning and Development. HUD will conduct a subsidy layering review to ensure that no more subsidy is invested in the project than necessary.

### **41. Section 202/811 with targeted HUD programs**

The HUD Office of Multifamily Housing has been reluctant to agree to covenants or restrictions on Section 202 or 811 properties that limit the target population more than their programs do. For example, the use of HOPWA requires that persons living with HIV/AIDS live in the housing, and HUD does not want covenants that limit the persons living in a Section 811 project to just one disability. Similarly, programs that are limited to homeless persons (such as the Supportive Housing Program) require eligibility restrictions that are stricter than the Section 202 or 811 restrictions, so it is difficult to combine the programs.

### **42. Section 202/811 with other governmental assistance**

State and local governmental assistance can be used in conjunction with Section 202/811 funding, so long as the assistance is structured as a grant or subordinate debt that can only be repaid through residual receipts or through non-project funds from the sponsor. These grants or loans may contain no conditions which interfere or conflict with HUD's requirements. The public lender cannot declare a default under the second mortgage without HUD's approval. The proceeds from these loans or grants can fund any costs except amenities that increase the operating costs of the housing (HUD Notice H 95-38). HUD will conduct a subsidy layering review to ensure that no more subsidy is invested in the project than necessary.

### **43. Section 202/Section 811 with Low-Income Housing and Historic Tax Credits**

During the year 2000, Congress enacted legislation (P.L. 106-569) that makes possible the combination of LIHTC and Section 202 or Section 811 funding. This legislation allows tax credit partnerships to be the owners of Section 202/811 housing projects, and it includes language that allows for Section 202 and 811 to not be considered federal grants for purposes of LIHTC. The legislation does not address whether the Section 202/811 Project Rental Assistance Contract would be considered federal subsidy, although it is very similar to other federal rental subsidies that have received this exemption from the IRS. HUD subsequently issued an Interim Rule on December 1, 2003 detailing the regulations that apply to "mixed-finance" Section 202/811 projects. Among other things, the Interim Rule limits the amount of developer fee on a mixed-finance project to 9%.

A big issue in combining LIHTC and Section 202/811 funding is the timing. LIHTC projects must meet very strict deadlines in the development process or risk forfeiting the tax credits. The Section 202/811 process can be lengthy, especially for developers who have not previously used the program or for innovative projects. Since the use of Section 202/811 and LIHTC together is very new and many of the issues of combining the programs have not been worked out (e.g., who subordinates to whom), timing concerns may be critical.

Section 202/811 units that are covered by a Project Rental Assistance Contract cannot be combined with tax-exempt bond financing (which generates the 4% credits), so it is easier to combine Section 202/811 funding with competitive 9% tax credits. Because income targeting is a required LIHTC allocation criterion, sponsors may be forced to commit to very low income targeting to be competitive. In Section 202/811 projects, HUD requires that projects serve households earning less than 50% of area median income, and they discourage lower income targeting. HUD will only allow regulatory agreements from other funders to specify lower income levels for units in proportion to the funding they put into the project. For example, if LIHTC funds 53% of the project costs, no more than 53% of the units can be set aside for households earning less than 30% of area median income.

#### **44. Section 202/811 with Federal Rental Subsidies**

Section 202 and Section 811 projects come with a Project Rental Assistance Contract, so they do not need and cannot be combined with other rental subsidy programs, such as Section 8, Section 8 Mod Rehab SRO, Shelter Plus Care, HOPWA, Section 521, and public housing operating subsidies.

#### **45. Section 202/811 with RHS Section 515**

Although nothing specifically prohibits combining Section 202 or 811 funding with RHS Section 515 funding, it does not make much sense to combine them. These programs do very similar things, offering the possibility of capital financing and rental subsidies. However, they are governed by different regulations and administered by very different federal agencies.

#### **46. Section 8 and Shelter Plus Care with debt financing**

The payment standard on Project-Based Section 8, Section 8 Mod Rehab SRO, and Shelter Plus Care is generally high enough to allow for the repayment of debt. However, the term of the project-based contract, anywhere from one to 10 years, may make it difficult to secure loans with longer terms.

#### **47. Section 8 Moderate Rehabilitation SRO with HOME**

HOME funds may be used to acquire and rehabilitate units to be used with Section 8 Mod Rehab SRO assistance. The maximum rents that may be charged (including tenant and subsidy contributions) are calculated differently in the HOME and SRO programs. When all of the units are occupied by households earning less than 50% of area median income, the HOME regulations allow the SRO program rents to be charged (24 CFR 92.252(b)(2)). Otherwise, maximum HOME rents for SRO units vary based on the amenities in the unit (HUD Notice CPD 01-01). Section 8 Mod Rehab SRO assistance may not count as HOME match.

#### **48. Section 8 and Shelter Plus Care with Section 515**

Project rental assistance from sources other than the Section 521 program may be used in conjunction with the Section 515 program only with prior authorization from the National Office of the Rural Housing Services. RHS requires that the provider of the rental assistance enter into a Memorandum of Understanding with RHS outlining the terms of the assistance.

#### **49. Section 811 with Section 202**

Section 202 and Section 811 can fund different units in the same project; however, a sponsor would have to successfully compete for the two sources of funding separately, which might affect the competitiveness of each application.

## **50. Shelter Plus Care with HOME**

HOME funds may be used to develop units with project-based Shelter Plus Care assistance. The use of HOME funds would limit the payment standard on the Shelter Plus Care units to the lesser of HOME rent levels and “reasonable rents” (HUD Notice CPD 01-01). HOME funds cannot count as Shelter Plus Care match, and Shelter Plus Care cannot count as HOME match.

## **51. Supportive Housing Program with private debt**

Operating assistance under the Supportive Housing Program may not be used to make mortgage payments of any kind. Private debt could be used on an SHP project that does not use SHP operating assistance, but the rents that most SHP projects generate are not high enough to allow for debt service payments.

## **52. Supportive Housing Program with HOME**

HOME funds may be used in conjunction with SHP capital, operating or supportive services funding (HUD Notice CPD 01-01). HOME regulations require that any rental units assisted with HOME have one-year leases with tenants. This may conflict with some transitional housing programs funded with SHP, although it should not conflict with SHP permanent housing. SHP-funded units may only charge tenants 30% of the actual household income, which is different than HOME rent policy. HOME can count as SHP match, but SHP cannot count as HOME match.

## **53. Supportive Housing Program with Project-Based Section 8**

Projects that receive SHP operating assistance may not also get Project-Based Section 8 assistance. In addition, HUD’s 2004 SuperNOFA indicates that HUD will not fund new transitional housing projects that combine SHP (capital or operating) assistance with Project-Based Section 8s.

## **54. Tax-Exempt Bond Financing with Historic Tax Credits**

If more than 35% of a building is leased to a tax-exempt entity, that portion of the building is ineligible for Historic Tax Credits. Because 501(c)(3) tax-exempt bond financing requires a tax-exempt use, this makes it difficult to combine these two types of funding. This issue is not a concern when using private activity bonds.

## **55. Tax-Exempt Bond Financing with Low-Income Housing Tax Credits**

There are different kinds of tax-exempt bonds that can be used to finance housing, including 501(c)(3) bonds, private activity bonds and bonds issued by states or local governments. 501(c)(3) bonds are limited to nonprofit borrowers, so they cannot be used in conjunction with LIHTC, which require a for-profit owner. Private activity bonds, which are subject to a state bond cap, may be used in conjunction with LIHTC. In fact, projects where 50% of the basis is financed with private activity bonds are eligible for an allocation of tax credits without having to compete. Tax-exempt bonds are considered federally subsidized loans, so projects with tax-exempt bond financing are only eligible for the lower “4%” tax credits.

## **56. Tax-Exempt Bond Financing with Section 108 Loans**

The Section 108 program cannot be used in conjunction with tax-exempt bond financing.

# Glossary

**APPLICABLE FEDERAL RATE (AFR)** Monthly interest rate statistic that is published by the Department of the Treasury and used for income tax purposes. The rates can be found on the IRS web site at [www.irs.gov](http://www.irs.gov).

**BASIS, ELIGIBLE BASIS, OR TAX CREDIT BASIS** The portion of development costs that are eligible for consideration in the tax credit allocation process. The amount of tax credits allocated to a project is determined by a formula that starts with the eligible basis. Only depreciable development costs count towards the project's eligible basis. Land acquisition costs, for example, may not be included in the basis.

**BELOW-MARKET FEDERAL LOAN** Any loan originating from federal sources, including tax-exempt bonds, that has an interest rate below the Applicable Federal Rate.

**DAVIS-BACON WAGE RATES** Federal prevailing wage rates that must be paid on certain federally funded construction projects. The trigger (contract size or number of units) for Davis-Bacon requirements varies from program to program.

**EMERGENCY SHELTER** Any facility, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless.

**EQUITY, OR TAX CREDIT EQUITY** The amount of capital that a tax credit investor contributes to a project.

**LEVERAGE** The total funding secured from other sources. For example, if the funding sources for a project include \$200,000 of HOME funds and \$600,000 of other funds, the leverage for the HOME funds is \$600,000, or a 3:1 leverage ratio. Leverage is often used as a scoring criterion for competitive applications, where projects with higher leverage ratios receive more points.

**LLC** Limited Liability Company, a type of company, authorized only in certain states, whose owners and managers receive the limited liability and (usually) tax benefits of an "S Corporation" without having to conform to the S corporation restrictions. An LLC consists of a managing member and company members. In a tax credit LLC, the managing member is usually the project sponsor and the company members are the investors.

**MATCH** In some federal programs, the minimum amount of project funding that must come from other sources, usually expressed as a percentage of the federal funding. For example, most uses of HOME funds require a 25% match. This means additional funding must be provided from eligible match sources equal to at least 25% of the HOME funds used in a project.

**RESIDUAL RECEIPTS** Operating cash flow remaining after all expenses and hard debt service has been repaid. A residual receipts loan is one that is only repaid out of available cash flow.

**RURAL HOUSING SERVICE (RHS)** The program within the Rural Development division of the United States Department of Agriculture that is responsible for funding rural housing; formerly the Farmers Home Administration.

**SUBORDINATE DEBT/FINANCING** A loan with a mortgage that is in lower lien position than another mortgage secured by the same assets.

**SUBSIDY LAYERING REVIEW** A review performed by HUD or its designee when two or more federal subsidies are included in a project to ensure that no more governmental assistance is provided to a project than is required to make the housing affordable.

**TRANSITIONAL HOUSING** A project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time, but usually no more than 24 months. To be eligible for tax credits, transitional housing must offer an initial lease of at least 6 months.

**UNIFORM RELOCATION ACT** Short for the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, a law which requires the payment of relocation assistance to residential and commercial tenants who are displaced by activities that use some types of federal funding.

# Web Links to Regulations and Other Information

## Community Development Block Grant

<http://www.hud.gov/offices/cpd/communitydevelopment/rulesandregs/index.cfm>

## Emergency Shelter Grant

<http://www.hud.gov/offices/cpd/homeless/rulesandregs/regulations/576esg/index.cfm>

## FHA Multifamily Loans

<http://www.hud.gov/offices/hsg/mfh/map/mapguide/mapguide.cfm>

## FHLB Affordable Housing Program

<http://www.fhfb.gov/Default.aspx?Page=47&Top=3>

## Historic Tax Credits

<http://www2.cr.nps.gov/tps/tax/taxregs.htm>

## HOME

<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/index.cfm>

## HOPE VI

<http://www.hud.gov/offices/pih/programs/ph/hope6/grants/admin/index.cfm>

## HOPWA

<http://www.hud.gov/offices/cpd/aidshousing/lawsregs/index.cfm>

## Low-Income Housing Tax Credits

<http://www.fourmilab.ch/ustax/www/t26-A-1-A-IV-D-42.html>

## New Markets Tax Credits

<http://cdfifund.gov/programs/programs.asp?programID=5>

## Public Housing

<http://www.hud.gov/offices/pih/regs/index.cfm>

## RHS Section 514/516 (Farm Labor Housing Loans and Grants)

<http://www.ruralhome.org/pubs/guides/fedprograms/usda.htm#514>

## RHS Section 515 (Rural Rental Housing Loans)

<http://www.ruralhome.org/pubs/guides/fedprograms/usda.htm#515>

## RHS Section 521 (Rural Rental Assistance Payments)

<http://www.ruralhome.org/pubs/guides/fedprograms/usda.htm#521>

## RHS Section 538 (Guaranteed Rural Rental Housing Program)

<http://www.ruralhome.org/pubs/guides/fedprograms/usda.htm#538>

## Section 108 Loan Guarantee

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/108/index.cfm>

**Section 202**

<http://www.hud.gov/offices/hsg/mfh/progdesc/eld202.cfm>

**Section 8 Mod Rehab SRO**

<http://www.hud.gov/offices/cpd/homeless/programs/sro/index.cfm>

**Section 8 Project-Based**

[http://www.access.gpo.gov/nara/cfr/waisidx\\_01/24cfr983\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/24cfr983_01.html)

**Section 811**

<http://www.hud.gov/offices/hsg/mfh/progdesc/disab811.cfm>

**Shelter Plus Care**

<http://www.hud.gov/offices/cpd/homeless/programs/splusc/index.cfm>

**Supportive Housing Program**

<http://www.hud.gov/offices/cpd/homeless/rulesandregs/regulations/583shp/index.cfm>

**Tax-Exempt Bond Financing**

<http://www.irs.gov/taxexemptbond/article/0,,id=132043,00.html>