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F I S C A L I M P A C T R E P O R T

SPONSOR Keller ORIGINAL DATE 02/13/14
LAST UPDATED _____ HB _____
SHORT TITLE Low-Income Housing Tax Credit Scoring SM 93
ANALYST Weber _____

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Mortgage Authority (MFA)

SUMMARY

Synopsis of Bill

The New Mexico Mortgage Finance Authority (MFA) runs a competitive award process for allocating low-income housing tax credits that awards five points to a project located within a qualified census tract. The state housing tax credit program's qualified allocation plan, effective January 1, 2014, defines a qualified census tract as any census tract that is designated by the United States Secretary of the Department of Housing and Urban Development (HUD) as having fifty percent or more of the households at an income level that is less than sixty percent of the area gross median income in accordance with Section 42(d)(5) of the Internal Revenue Code.

HUD designates qualified census tracts for purposes of the low-income housing tax credit program. The low-income housing tax credit program also requires that the poverty rate in the tract be at twenty-five percent or more for qualified census tract eligibility. The low-income housing tax credit requires that no more than twenty percent of the metropolitan area population reside within designated qualified census tracts. The twenty percent limit also applies collectively to nonmetropolitan counties in each state. It is possible for a tract to meet one or both of the above criteria, but still not be designated as a qualified census tract. The low-income housing tax credit status does not provide for an appeal process to change the qualified census tracts designation of an individual census tract when an error has occurred that causes redesignation. Qualified census tract designations are updated every five years by HUD.

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Most low-income housing tax credit projects take a long time to reach the application stage, which is only once a year at the end of January, and require substantial resources in terms of time and money to make such an application. The small business administration also uses qualified census tract designations for its historically underutilized business zones program, called HUBZone, and has run into the same designation problem but has resolved the issue by grandfathering projects for three years. The competition for low-income housing tax credits is very competitive, and the loss of the five points awarded to projects within the qualified census tracts can make or break an application. There is a fairness issue for those in the process of putting together a project for application to then lose the qualified census tract designation.

The memorial asks that the MFA to study the feasibility of adopting a policy for low-income housing tax credit scoring purposes that grandfathered for two years any qualified census tract that has been redesignated by HUD.

This memorial should be transmitted to the director of MFA.

FISCAL IMPLICATIONS

No fiscal implications were identified.

SIGNIFICANT ISSUES

HUD describes the Low-Income Housing Tax Credit (LIHTC) Program, which is based on Section 42 of the Internal Revenue Code and enacted by Congress in 1986, to provide the private market with an incentive to invest in affordable rental housing. Federal housing tax credits are awarded to developers of qualified projects. Developers then sell these credits to investors to raise capital (or equity) for their projects, which reduces the debt that the developer would otherwise have to borrow. Because the debt is lower, a tax credit property can in turn offer lower, more affordable rents.

Provided the property maintains compliance with the program requirements, investors receive a dollar-for-dollar credit against their Federal tax liability each year over a period of 10 years. The amount of the annual credit is based on the amount invested in the affordable housing.

MFA offers the following information:

MFA administers the LIHTC program on behalf of New Mexico. MFA allocates nine percent LIHTCs through a competitive process guided by a Qualified Allocation Plan (QAP). The 9 percent tax credit round has become extremely competitive as the demand for affordable rental housing has increased. In 2013, MFA's allocation could only fund four of the 18 projects submitted. Twenty-one applications were received for the 2014 round, which closed on January 31, 2014.

Out of a maximum of over 200 points, MFA awards five points to projects located in Qualified Census Tracts (QCT), a designation given by the US Department of Housing and Urban Development. MFA does not designate QCTs but merely awards the points based on HUD's designation. MFA is aware of one census tract in Albuquerque that recently lost its QCT designation.

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MFA is willing to study and consider the proposal to grandfather QCT designations for two years, as proposed by SM93. However, the appropriate means for considering this proposal is MFA's annual QAP comment period, which allows MFA to consider policy and scoring suggestions from developers, communities and the general public.

The process for MFA's annual QAP comment period is as follows:

While stakeholder feedback on the QAP is encouraged throughout the year, MFA holds a “developer’s forum” focus group (typically in July) prior to beginning draft revisions to the QAP. MFA then presents a list of proposed changes its Policy Committee and Finance Committee for discussion. A draft QAP is then composed and posted, typically in late August, on the MFA website. This kicks off a formal month-long public comment period during which a public hearing is held. After the public comment period concludes, a final draft QAP is composed and presented to the Policy Committee, Finance Committee, and, in October, to the MFA Board of Directors for approval. After Board approval, the QAP is sent to the Governor for final approval. Comments received on the QAP are summarized and posted on MFA's website. Because of the time frames for the public comment period, the requirement that the QAP be signed by the Governor, and the fact that the 2014 9 percent tax credit round has closed, any proposed changes to the QAP would be considered in the summer/fall of 2014 for the 2015 Round.

MFA's structured QAP public comment process is intended to ensure the integrity of the LIHTC program and fairness to all applicants. MFA recommends the use of the public comment period to appropriately consider this proposal. Senate memorials and other legislative actions could set a dangerous precedent of political influence on the LIHTC program.

MW/ds