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COVID-19 Stimulus Package/Omnibus FY 2021 Federal Budget: What's in it for Housing?

By: Deborah VanAmerongen and Richard Price

The COVID-19 Stimulus Package passed as part of a flurry of year-end legislation, including an omnibus funding bill to cover the remainder of this fiscal year and a tax extenders/community development tax incentives bill; combined, the legislation has several provisions that benefit the affordable housing industry. The omnibus bill funds the Department of Housing & Urban Development (“HUD”) through September 30, 2021.

Here's a link to a funding levels chart: <https://www.ncsha.org/wp-content/uploads/NCSHA-FY-2021-Budget-for-HUD-and-USDA-FINAL-12.21.2020.pdf>.

Fixing the 4% LIHTC

The tax extenders/tax incentives bill includes a provision to fix the 4% Low-Income Housing Tax Credit (“LIHTC”) at 4%. Fixing the 4% credit at 4% has long been the affordable housing community's top priority in regard to the LIHTC program. The 4% LIHTC is available for acquisition LIHTCs and tax-exempt private activity bond-financed developments. The rate has always floated and is tied to the federal borrowing rate; during COVID-19, it has dropped to as low as 3.07%. It is expected that setting the 4% LIHTC at 4% will generate millions more in equity investments for affordable housing and lead to the production or preservation of tens of thousands more affordable units.

This 4% fix is prospective — it applies to acquisition LIHTCs allocated after December 31, 2020, and to bond-financed properties placed in service and receiving allocations from private activity bonds issued after December 31, 2020. We'll have more on this rule in a future alert.

Rental Assistance

The COVID-19 Stimulus Package contains \$25 billion to provide emergency rental assistance to renters adversely impacted by the pandemic. Households with incomes up to 80% of the area median income (“AMI”) will be eligible for assistance, but assistance will be prioritized for households under 50% AMI. The \$25 billion will be allocated on a formula basis to states and localities, which will then designate grantees to administer the program.

Renters would be able to apply for assistance to cover unpaid rent or utility bills that have accumulated since the beginning of the pandemic; they also can apply to receive assistance with ongoing rent and utility payments. Assistance will be limited to 12 months, but could be extended an additional three months if it is necessary to ensure the household remains stably housed and

funds are available.

Renters will apply for these monies, but payments would be sent directly to their landlords, assuming that landlords agree to accept it. If a landlord will not accept it the payment, it would go directly to the renter to make payments themselves. Landlords could also apply directly, but must have tenant consent to do so.

Eviction Protection

The COVID-19 Stimulus Package extends the previously enacted CDC eviction moratorium until January 31, 2021.

\$1.1 Billion in “Disaster” LIHTCs

Congress included \$1.1 billion in LIHTCs for 11 states and Puerto Rico that experienced non-COVID-19 disasters in 2020. The largest recipient will be California, which will receive approximately \$7.2 million in additional 9% LIHTCs (a \$7.2 billion 10-year stream).

Nixon Peabody will continue to track the latest updates and news on these legislative provisions.

For more information about the content of this alert, please contact your Nixon Peabody attorney or:

- Deborah VanAmerongen at dvanamerongen@nixonpeabody.com or 917-544-3250
- Richard Price at rprice@nixonpeabody.com or 202-288-6137