

**TAX CREDIT ASSISTANCE PROGRAM
SELECTION CRITERIA
APPROVED BY NJHMFA BOARD ON 5/28/09**

Division A, Title XII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) (Recovery Act) appropriated \$2.250 billion under the HOME Investment Partnerships (HOME) Program heading for a grant program, known as the Tax Credit Assistance Program (TCAP), to provide funds for capital investments in Low-Income Housing Tax Credit projects. A major purpose of TCAP funds is to immediately create new jobs or save jobs at risk of being lost due to the current economic crisis.

The State of New Jersey is eligible for TCAP funding in the amount of \$61,243,670. As the housing credit agency responsible for administration of the Low Income Housing Tax Credit Program, the New Jersey Housing and Mortgage Finance Agency (HMFA) has also been charged with administration of the TCAP Program. HMFA shall submit a statement of intent to accept TCAP funds to HUD no later than June 3, 2009. In accordance with HUD submission requirements, this document sets forth the selection criteria proposed by HMFA for projects requesting TCAP funds and the priorities HMFA shall use to competitively award TCAP funds. The provisions of this notice shall be interpreted in a manner consistent with the requirements of HUD Notice: CPD-09-03.

ELIGIBLE PROJECTS

Projects eligible to receive TCAP assistance are rental housing projects that received or will receive an award of LIHTCs under Section 42(h) of the Internal Revenue Code of 1986, as amended, (IRC) (26 U.S.C. § 42), during the period from October 1, 2006 to September 30, 2009 (federal fiscal years 2007, 2008 or 2009), and require additional funding to be completed and placed into service in accordance with the requirements of Section 42 of the IRC.

AWARD OF CREDITS

For projects requesting 30% present value credits (“4% credits”), an “award of credits” shall mean that pursuant to §42(m)(2) of the Internal Revenue Code (“IRC”), there is a need for the tax credits to assure project feasibility and the “award of credits” shall be deemed awarded as of the date a letter is issued by HMFA stating the project satisfied the requirements under the applicable Qualified Allocation Plan for issuance of tax credits.

For projects requesting 70% present value credits (“9% credits”), an “award of credits” shall mean that pursuant to §42(m)(2) of the Internal Revenue Code (“IRC”), there is a need for the tax credits to assure project feasibility and the “award of credits” shall be deemed awarded as of the date of the Tax Credit Committee meeting during which that project’s awards/decisions are announced.

MAXIMUM TCAP AWARD PER PROJECT

TCAP funding shall not exceed \$6 million per project. TCAP funds shall be provided in the form of loans repayable out of available cash flow.

SELECTION CRITERIA

Highest priority for TCAP funding shall be given to eligible projects that are expected to be completed within 3 years from the date of Recovery Act enactment (February 16, 2012). Among such projects, TCAP awards shall be granted in the following order until New Jersey's TCAP authority has been exhausted:

- I. Projects that receive an award of 9% tax credits during the 2009 Tax Credit Cycles
 - i. TCAP funding shall be prioritized in the following manner: the highest ranking eligible project(s) awarded credits in the Family Cycle, the Senior Cycle, the Supportive Housing Cycle and lastly, the Final Cycle.

- II. Projects that received an award of 9% tax credits in 2007 or 2008 that have not yet closed with an investor and who can demonstrate that their financial feasibility has been detrimentally impacted by the significant downturn in the tax credit equity
 - i. Should HMFA receive multiple applications from such projects, TCAP funding shall be awarded starting with the project requesting the least amount of TCAP funds per subsidized unit.

- III. Should TCAP funding be available after priorities I and II are satisfied, HMFA shall establish a Request for Proposals for "shovel ready" projects that have received an award of 4% tax credits during the period from October 1, 2006 to September 30, 2009. TCAP funding shall be awarded starting with the project requesting the least amount of TCAP funds per subsidized unit. Such projects shall have the following in place at the point of TCAP application submission:
 - i. Building permits
 - ii. A "firm" commitment of equity from a tax credit investor. Such letter shall not contain any "best efforts" language (e.g., "subject to finding an investor" or "subject to equity availability").

- IV. Should TCAP funding be available after priorities I, II and III are satisfied, TCAP funding shall be awarded to other eligible TCAP applicants, starting with the project with the least amount of TCAP funds requested per subsidized unit.

COMMITMENT AND EXPENDITURE DEADLINES; REDISTRIBUTION OF FUNDS

The Recovery Act imposes both commitment and expenditure deadlines on the use of TCAP funds. Specifically, the Recovery Act requires that the state housing credit agency:

- Commit not less than 75 percent of its TCAP grant within one year of the enactment of the Recovery Act (i.e., by February 16, 2010);
- Demonstrate that all project owners have expended 75 percent of the TCAP funds within two years of the enactment of the Recovery Act (i.e., by February 16, 2011); and
- Expend 100 percent of its TCAP grant within three years of the enactment of the Recovery Act (i.e., by February 16, 2012).

To ensure the timely utilization of funds as described above, HMFA shall establish a project-specific schedule for the expenditure of TCAP funds. Failure of TCAP recipients to meet such deadlines may result in recapture of the TCAP funds for redistribution to a more deserving project, defined as the next highest ranking eligible project in the current 9% tax credit funding cycle.

ASSET MANAGEMENT

HMFA shall perform asset management functions, or contract for performance of these services, at the owner's expense, to ensure compliance with Section 42 of the IRC and the long term viability of projects funded by TCAP. As part of these asset management functions, HMFA shall maintain a publicly-accessible website that allows interested persons to determine to whom the TCAP funds have been awarded and, as applicable, recaptured and re-allocated. This website shall be located at:

<http://www.nj-hmfa.com>

FEDERAL GRANT REQUIREMENTS

TCAP funds are federal financial assistance and, therefore, are subject to requirements applicable to such funds. Grantees must comply with the Fair Housing Act, Title VI of the Civil Rights Act, the Age Discrimination Act of 1975, affirmatively furthering fair housing requirements, Section 504 of the Rehabilitation Act of 1973, the National Environmental Policy Act, the Lead-Based Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992, Davis-Bacon prevailing wages, anti-lobbying restrictions, the Drug-Free Workplace Act of 1988, and various OMB regulations and circulars.

Interested parties may send written comments on this proposed selection criteria to:

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Comments are to be received by the Agency by 5:00 EDT on May 26, 2009.