

To: Interested Parties
From: Joshua Slade, Development Underwriter
Joe Erdelyi, Director of Development
Cynthia Reid, Senior Development Underwriter
Date: May 19, 2009
Re: 2009 American Recovery and Reinvestment Act Implementation:

- Tax Credit Assistance Program (TCAP)
- Monetized Credit (Credit Exchange Program)

On February 17, 2009 President Obama signed into law H.R. 1, the American Recovery and Reinvestment Act (ARRA) which includes a number of enhancements to the LIHTC program for fiscal years 2007, 2008 and 2009. This memo details information regarding two programs: the Tax Credit Assistance Program and Monetized Credit.

Competitive priorities for the Tax Credit Assistance Program can be found on the VHFA website:
<http://www.vhfa.org/developers/lihtc/overview.php>

Tax Credit Assistance Program (TCAP)

ARRA contained \$2.25 billion of TCAP funding which will be allocated to the states using the existing formula associated with the HOME program funding. This equals \$5,416,546 which will be available for projects who received a Housing Credit allocation in fiscal year 2007, 2008 or 2009. Either “9%” (or “Ceiling Credits”) and “Out of Cap” (or “4% Bond Credits”) are eligible¹ to receive TCAP funds in order to fill a financing gap.

Guidance from HUD states that projects that receive TCAP funds must comply with all applicable federal fund requirements, including, but not limited to:

1. Davis-Bacon wage standards;
2. Environmental Reviews;
3. Fair Housing and Non-discrimination;
4. Uniform Relocation Assistance (if applicable); and,
5. Rules for Low Income Housing Tax Credits.

VHFA will review all applications received, and award funds based on the attached competitive priorities. VHFA is exploring working in conjunction with VHCB to conduct environmental reviews, which are similar to those required by the HOME program.

VHFA must commit 75% of the TCAP funds before 2/17/2010 and all funds must be spent by 2/17/2012. In order to ensure the maximum benefit from these funds the following deadlines are imposed on projects:

- First round applications must be submitted in July 2009².

¹ Competitive Priorities: <http://www.vhfa.org/documents/developers/tcap.pdf>

² VHFA anticipates awarding no less than 75% of the available TCAP funds in the first round, and will award all TCAP if possible.

- First round awards will have a 2/28/10 construction start deadline. Failure to meet this deadline will mean TCAP commitment is automatically revoked and funds are returned to VHFA for reallocation.
- Second round application must be submitted in April 2010³.
- All second round awards will have a 7/31/2010 construction start deadline.
- VHFA may condition an award of TCAP funds on the sponsor spending TCAP before other sources in order to meet the statutory goal of spending 75% of the TCAP funds in the aggregate by 2/16/2011.
- Any funds not disbursed by 2/16/2012 will be returned to HUD.

In order to accurately track TCAP funds and targets, project developers will requisition funds as needed from VHFA. TCAP funds may only be used for capital expenses (costs that are allowable in eligible basis).

Monetized Credits

Under this program, VHFA can exchange up to 40% of the 2009 housing credit ceiling⁴ as well as any returned credit from FY 2007 and 2008 for cash grants or “Monetized Credits” (MCs) which then can be used to make sub-awards for the acquisition, rehabilitation or new construction of affordable housing units.

Eligibility:

1. Any project that received a 2009 Ceiling allocation; or,
2. Any project that returned a 2007 or 2008 Ceiling allocation; **and**,
3. Allocation could not be sold to an investor or syndicator.

Timing:

1. All sub-awards must be spent by 12/31/2010.
2. Unspent sub-awards must be returned to the Treasury.

Regulations:

1. All restrictions (or the equivalent) of the LIHTC will apply to MCs including compliance monitoring.
2. MCs do not come out of basis.
3. MCs are not subject to Davis-Bacon, Uniform Relocation Act, etc. however they are subject to the Fair Housing Act and other requirements that apply to tax credit projects.

Methodology:

1. VHFA will exchange the returned credits for \$0.85 on the dollar (unless otherwise changed by the US Treasury).
2. VHFA will make sub-grants to the project for the yield necessary to fill the funding gap.
3. Should there be surplus cash remaining, VHFA will award these funds to other projects with funding gaps that meet the Housing Credit guidelines along the same competitive priorities as the TCAP funds.

³ VHFA will award the remaining TCAP funds (and any recaptured awards) in the second round.

⁴ 4% Bond Credits (or Out of Cap Credits) are not eligible for the Monetized Credit program.