

Pennsylvania Housing Finance Agency

July 1, 2009
(as approved by HUD)

**Subject: The American Recovery and Reinvestment Act of 2009
Implementation Plan for Administration of Funds**

The Pennsylvania Housing Finance Agency (the "Agency") is pleased to announce the availability of additional resources to fund certain properties currently holding an Agency allocation of Low Income Housing Tax Credits ("tax credits") as well as those under consideration by the Agency for an award of 2009 tax credits. The resources are made available pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA"). The following provides a brief summary of the ARRA tax credit funding programs (the "ARRA funds") and outlines the plan by which the Agency will process requests for ARRA funds (the "ARRA Implementation Plan").

Tax Credit Assistance Program

Funds in the amount \$95,050,396 will be available for use in Pennsylvania for properties which have received or will receive an allocation of tax credits in fiscal years 2007, 2008 or 2009. These funds will be made available by HUD. While the funds are appropriated under the HOME program, many HOME requirements do not apply (such as rent and income restrictions, 221(d)(3) limitations). HUD has named this program the Tax Credit Assistance Program ("TCAP"). Some of the federal rules applicable to TCAP have been identified by HUD and are available on the Agency's website, www.phfa.org and HUD has indicated that additional guidance and requirements will follow.

Pursuant to ARRA, the Agency must establish a plan to disburse TCAP funds competitively following ARRA and pursuant to its Low Income Housing Tax Credit Allocation Plan ("Allocation Plan"). (This ARRA Implementation Plan is consistent with the Agency's existing Allocation Plan, which was approved by the Governor, after public notice, hearing and comment period). TCAP funds must be allocated within the following timeframe: 75% of the funds must be committed by February 16, 2010, 75% of the funds must be expended by February 16, 2011 and all of the funds must be expended by February 16, 2012. Any funds recaptured during this three year period from June 1, 2009 to February 16, 2012 will be made available for use pursuant to this ARRA Implementation Plan. Properties receiving these funds must have a tax credit allocation and the funds may be used only for basis eligible items.

Tax Credit Exchange Program

A second resource available to housing credit agencies is an opportunity to exchange some of our 2009 tax credit authority, up to 40% of the 2009 per capita amount available, plus up to 100% of previous years tax credits returned in 2009, for ten (10) years, at a rate of \$.85 ("Exchange funds"). These funds will provide the Agency with a pool of funds for properties which are unable to secure a reasonable equity investment for the financial feasibility of the project. The developer must demonstrate they have made a good faith effort, as determined by the Agency, in order to access the Exchange funds. All Exchange funds must be fully expended by December 31, 2010.

General Program Administration

The Agency's goal in the administration of these ARRA funds is to fund developments which promote ARRA's objectives of economic stimulus and job growth. It is our intent to prioritize projects which are able to proceed quickly. In order to assist us in developing this ARRA Implementation Plan, we sent a survey to both developers currently holding an award of 2007 and 2008 tax credits and to those who have submitted an application for 2009 tax credits seeking information on their ability to proceed. The questionnaire asked about the status of the following items: site ownership; plan and specification development; construction contracts; zoning and planning approvals; building permits; other federal, state and local funding commitments; and equity investment. From the responses, it appears that a number of properties are "shovel ready" except for their ability to secure an equity investor or find investment dollars sufficient to fully fund development costs.

Preliminary information about both TCAP and the Exchange funds has now been provided by HUD and Treasury (CPD 09-03 and the Application and Terms and Conditions for Grants to States for Low-Income Housing Project in Lieu of Low-Income Housing Credits for 2009 under the ARRA of May 2009 respectively.) Based on this guidance, TCAP funds may be the first resource available for distribution, but the Agency may determine, in its discretion to provide an award of Exchange funds in lieu of TCAP to any development as it deems appropriate. The following outlines the process for making a request for ARRA funds. As additional regulatory guidance or clarifications regarding ARRA funds become available, specifically covering the availability of Exchange funds, the Agency may modify, supplement or amend the ARRA Implementation Plan. In addition to notifying affected program applicants, information about such subsequent changes will be posted on the Agency's website at www.phfa.org.

The Agency will make a determination of which resource may be available to each individual development in its discretion based on the availability of funds, the attributes of the development, the amount of assistance needed to complete the development and demonstrated ability of the development to meet all constraints of the funding timeframes.

Developments which receive either TCAP or Exchange funds, in whole or in part, must continue to operate in accordance with tax credit program rules, including rent, income and use requirements. All developments seeking ARRA funds must continue to demonstrate compliance with the Low Income Housing Tax Credit Allocation Plan ("Allocation Plan") for the year in which they received an award of tax credits including the Threshold and Selection Criteria for the year in which an award was made. The Agency will perform asset management and compliance functions during this period. We will be looking for an adequate levels of commitment of owner funds and such security and reserves to support project operations for the compliance period (which may entail holding 25% of developers fee or other forms of security). It is our plan to administer all ARRA program funds using similar protocols established for our PennHOMES program, including underwriting, disbursement of funds, technical review and asset management through the term of the project. All TCAP and Exchange fund developments will be subject to an extended use agreement.

Additionally, funding will be awarded based upon the development's current allocation of tax credits. The Agency will not accept any modifications by the applicant to the development's construction costs, fees, sources of funds, operating income and expenses, except as directed or approved by the Agency.

Processing Deadlines

To maximize the use of ARRA funds and ensure that they will be expended within the applicable ARRA program time periods, the Agency will accept applications from developments holding a reservation of 2007 or 2008 tax credits on or after June 1, 2009. In order to receive an award of ARRA funds, developments must demonstrate their ability commence construction within 60 days from the ARRA award date. Applications will be considered on a rolling submission basis, subject to availability of funds and demonstration that ARRA timeframes will be met. **An application should only be submitted when it is assured that the timeframes can be met.**

It is the Agency's goal to expedite the review time period and make awards within 30 days from the date of application. Applications which are incomplete or do not demonstrate the ability to commence construction within 60 days from the ARRA award date will be returned. Furthermore, developments which receive an ARRA award and are unable to demonstrate the ability to commence construction within this time period will have the award rescinded and must resubmit an application for ARRA funds. The Agency reserves the right to require strict adherence to closing timeframes and established deadlines for all developments to allow it to handle the volume of developments it expects to have. In the event the development is unable to meet this timeline or any program deadline, the Agency will recapture the award amount and take the necessary steps to redistribute the funds to a more deserving project that meets the selection criteria set forth herein and evidences an ability to meet the closing timeframes and project expenditure deadlines.

Additionally, the Agency may recapture an allocation of 2007 or 2008 tax credits from developments which do not receive an award of ARRA funds or which are unable to obtain fully committed financing and equity investment by October 1, 2009.

Funding Priorities

- 1 Developments currently holding an allocation of 2007 or 2008 tax credits.
- 2 Developments that have submitted a request for 2009 tax credits pursuant to the 2009 Amended Allocation Plan.
- 3 Developments requesting an allocation of tax-exempt volume cap from the Agency and using 4% tax credits. (Acquisition costs may not exceed 30% of the total development costs.)

Selection Criteria

Priority will be given to projects which can meet the applicable federal requirements as part of the original underwriting and application process with priority given to those projects which can be completed by February 16, 2012.. For instance, projects assisted with TCAP funds must demonstrate compliance with a number of federal requirements including Section 504 rehabilitation standards, Davis-Bacon wage rates and NEPA environmental clearances. Properties which reflect compliance with all applicable federal requirements without amending their original application or financing plan may be prioritized by PHFA in its selection.

Additionally, property owners must make a good faith effort to secure equity investors, and priority will be given to properties which can demonstrate that they obtained an equity investment.

Finally, and of crucial note, in keeping with the goals of the stimulus program, funding will be given to those developments which demonstrate they are able to commence construction within 60 days from the award date. Documentation evidencing the ability to proceed must be submitted with the application and developments will be selected based on the Agency's review upon the status of the following selection criteria (refer to ARRA Application Guidelines and Submission Requirements for specific documentation requirements).

- Site Ownership
- Site Plan Approval (including zoning and land use)
- Architectural and Construction related documents (including final construction budget based Davis-Bacon wage rates, if applicable)
- Commitment of all sources of Project funding.
- Building Permits
- Evidence of equity investment or failure to secure equity investment
- Status of federal clearances including environmental reviews, if applicable
- Evidence of the ability to complete construction within the ARRA program timeframes
- Completeness of application

Applications must contain specific timelines and documents for receipt of any funding, land use or investment approvals.

ARRA Reporting Requirements

Utilization of ARRA funding in a financing plan will subject the development to the reporting of additional project information, as applicable to the TCAP and Exchange funds, including jobs data (construction and non-construction jobs created and retained). Additional requirements and guidance from HUD and Treasury will be issued in the future, and such supplemental instructions and guidance will be applicable to a development and incorporated by reference when and as issued. The Agency will use its best efforts to provide such additional guidance to each owner in the form of an addendum to a funding agreement or guidance on its website. Such guidance may address, among other things, such items as recordkeeping, reporting, data collection, expenditure and accounting requirements, and additional federal grant and program requirements.

Application Requirements

Beginning on June 1, 2009, the Agency will accept applications, subject to availability of funds. For a development to be considered for an award of ARRA funds, the entire application package, including all exhibits and the application fee of \$1,000 must be received by the Agency. Applications may not be submitted to the Agency by fax or e-mail.

Additionally, it is suggested that prior to submission of an application for ARRA funds, applicants should check the Agency website, www.phfa.org for program updates and amendments.

PLEASE BE ADVISED THAT THESE GUIDELINES AND APPLICATION HAVE NOT BEEN FORMALLY ACCEPTED BY HUD YET FOR USE IN TCAP AND THE AGENCY MAY MAKE ANY CHANGES AS MAY BE NECESSARY AFTER RECEIPT OF THEIR REVIEW EVALUATION OR ANY ADDITIONAL GUIDANCE FROM HUD OR TREASURY.