

# ARRA PROGRAM GUIDELINES

AS OF JULY 1, 2009

## **Application Requirements**

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 upon the status of the selection criteria.

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](http://www.phfa.org) for program updates and amendments.

An Application, once received by the Agency, may not be altered, amended or modified. If a discrepancy is found in an Application during the review process, the applicant may be given five business days to respond to the request for clarification. An omission from the Application Checklist will result in the immediate rejection of the Application. Additionally, developments that do not provide evidence of the ability to commence construction within the requisite time period, in the Agency's sole discretion, will be returned.

**The Agency will make a determination of which resource (TCAP or Exchange Funds) 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.**

## **Underwriting Criteria**

**For all developments**, the following underwriting requirements are applicable:

**Funding Amount:** Funds may be provided in an amount sufficient to make the project financially feasible by the Agency, in its sole discretion. This amount will be based upon the development's current tax credit allocation (including additional tax credits) as amended or supplemented by documentation submitted to the Agency prior to the date of issuance of the ARRA Implementation Plan. TCAP and Exchange funds are limited to basis-eligible items in the approved budget for the Project and will be provided by the Agency in the form of a non-interest bearing deferred loan with a 30 year term. The loan will be non-recourse debt. Both TCAP and Exchange funds are limited to need as determined by the Agency. Exchange funds are subject to recapture to the U.S. Treasury in the event of noncompliance during the Project term and the Agency may secure this recapture obligation through a variety of security documents including a mortgage and note (which is only due in the event of default), pledges of collateral and personal guarantees of the Project Owner.

Recipients will be required to execute certain funding documents securing the repayment of funds. The Agency anticipates making the documents available on its website, [www.phfa.org](http://www.phfa.org). Please be advised that the agreements will be non-negotiable.

**ARRA Application Fee:** All applications must remit a processing fee of \$1,000 with the application.

**Construction Monitoring Fee:** \$500/month during the construction period.

**Commitment Fee:** Upon receipt of an award of ARRA funds, applicants holding a reservation of 2009 or 2008 tax credits must remit a Commitment Fee in the amount of \$10,000 within 2 weeks of the ARRA Award Date. Developments which are unable to evidence the ability to close the loan within 60 days of the ARRA Award Date will have the award rescinded and the fee forfeited. An additional Commitment Fee must be remitted for any subsequent award of funds. This fee is in addition to any fees due the Agency for an award of 2009 tax credits through either a reservation or reallocation of a previous years' tax credit authority. Applicants receiving an award of 2009 tax credits or ARRA funds must remit a fee equal to 6% of the tax credits for which the project would have been eligible to receive in lieu of an award of ARRA funds.

**Asset Management and Compliance Monitoring Fee:** \$800.00 per unit deposited as an upfront fee.

**For developments without an equity investor,** the following underwriting guidelines are also applicable:

**Developers Fee:** An amount equal to the amount listed as approved Developers Fee in the last allocation award to be disbursed as follows:

25% at initial loan closing;  
25% at construction completion, as approved by PHFA;  
25% upon qualified occupancy for 95% of the units; and  
25% upon achievement of 2 years of continued (1) 95% occupancy, (2) positive cash flow and (3) no findings of non-compliance or ten (10) years from occupancy whichever is earlier.

**The Agency may require additional retention of the Developer's fee or deposit of additional security in a pledged account, or financial guaranty from a qualified guarantor to ensure fiscal and physical compliance with the long term affordability period for developments in its discretion. Such additional retention or security, in the form of unpaid developers fee, letter of credit, cash reserves, or guaranties will be determined by Agency in its sole discretion.**

**Development Reserves:**

**Operating Reserve:** an amount sufficient to cover 4-9 months of operations. (If development is financed by PHFA, to be held by the Agency).

**Transformation Reserve:** an amount sufficient to cover the ACC subsidy for a period not to exceed 12 months. (If financed by PHFA amortized debt, to be held by the Agency).

**Rental Subsidy:** as originally submitted and approved - to be deposited in a pledged escrow account.

**Supportive Services Escrow** – as originally submitted and approved – to be deposited in a pledged escrow account.

**Reserve for Replacements** – The development must demonstrate that it has financial capacity to cover expected maintenance and replacement of capital items

during the project term. Said funds shall be deposited on an annual basis with the Agency or an approved third party pledged escrow account.

### **Technical Services Review and Payout Procedures**

Through a monthly payout process, PHFA will only disburse funds to reimburse for work completed and will hold retention items in the construction draw process (regardless of who serves as disbursement agent for the overall construction.)

### **Asset Management Requirements**

Developments which receive an award of ARRA funds must follow the reporting requirements set forth in PHFA's Financial Reporting Manual for Agency-Financed Properties and Tax-Credit Properties. Additionally, the Agency will be conducting a review of the physical condition of developments during the compliance period.

### **Tax Credit Compliance Requirements**

Developments which receive an award of ARRA funds must adhere to the rent, income and use restrictions set forth in Section 42 of the Internal Revenue of 1986, as amended. The reporting requirements for the tax credit program are set forth in the Property Operations Manual for PennHOMES and Tax Credit properties and the Low Income Housing Tax Credit Compliance Manual.

### **ARRA Reporting Requirements**

In addition to asset management and tax credit compliance reporting requirements, utilization of ARRA funding in a development financing plan will subject the ARRA 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, Treasury and IRS will be issued in the future, and such supplemental instructions and guidance will be applicable to this project and incorporated by reference when and as issued by Treasury and IRS. PHFA will use its best efforts to provide such additional guidance to each owner in the form of an addendum or supplemental guidelines. 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.

### **Recapture of Funds**

Failure to comply with any of the ARRA program requirements shall be considered by the Agency as an event of noncompliance and may result in the immediate recapture of funds. Such events of default may include, but shall not be limited to:

- Failure to construct the development in accordance with the plans and specifications.
- Failure to maintain the development as affordable rental housing in accordance with Section 42.
- Failure to abide by any of the federal requirements set forth in the addendum.

Remedies may include, without limitation,

- Immediate recapture of funds not expended and termination of funding commitment
- Enforcement of guarantees
- Removal of Management Agent

- Removal of General Partner
- Debarment from Agency programs

In addition, failure to comply with all applicable requirements relating to Exchange funds may trigger recapture and any debt determined to be subject to recapture will be a debt owed to the United States payable to the General Fund of the Treasury and enforceable by all available means against any assets of the property owner.

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.