



PHFA ARRA Processing Meeting

*Everything you need to know to
get ARRA Funds but weren't afraid to ask...*

July 8, 2009
www.phfa.org

PHFA ARRA PROCESSING MEETING: AGENDA

9:30	Welcome & Webinar Information	Holly Glauser-Abel
9:40	ARRA Program Guidelines	Holly Glauser-Abel
10:00	2007-2008 ARRA Application Requirements	Carol Carroll
10:20	Tax Credit Carryover Allocation Requirements	Gail Shull
10:45	Break	
11:00	Technical Services Submission Requirements	Stan Salwocki
11:20	Underwriting, Reserve Funding & Operating Expenses	Carl Dudeck
11:40	Housing Management Submission Requirements	Frank Dorwart
11:50	Payout Procedures	Kelly Wilson
12:10	What's Next	Holly Glauser-Abel

General Overview

- Brief Overview of ARRA Programs
 - Tax Credit Assistance Program
 - Low Income Housing Tax Credit Exchange Program
- ARRA Implementation Plan
- Requirements to Close
 - Submission of Documents
 - Underwriting
 - Federal Compliance

Tax Credit Assistance Program (TCAP)

- PHFA to receive \$95,050,396 directly from HUD
 - for developments awarded 2007, 2008 or 2009 Low Income Housing Tax Credits (LIHTC)
 - award must be made by September 30, 2009
- Developments must have an award of Tax Credits and follow Tax Credit requirements including:
 - timelines - carryover allocation, 10% test and placed in service remain
 - income, rent and use restrictions

Tax Credit Assistance Program

- Expenditure timelines:
 - 75 percent of funds must be committed in year 1
 - 75 percent of funds must be expended by year 2
 - 100 percent of funds must be expended by year 3
- Funding amount based on **eligible basis** costs
- Assistance will be a LOAN
 - 30 year non-interest bearing cash flow loan (50/50 split owner/PHFA)

Tax Credit Assistance Program

- Key Federal Financing Requirements:
 - Davis-Bacon Wage Rates
 - Anti-discrimination and Equal Opportunity
 - National Environmental Policy Act
 - Lead-Based Paint Poisoning Prevention and Residential Lead-Based Paint Hazard Reduction Act of 1992
 - Anti-Lobbying Restrictions

LIHTC Exchange Program

- PHFA may exchange 100 percent of returned credits from 2007 and 2008.
- PHFA may exchange up to 40 percent of PA's 2009 tax credit authority at \$0.85 per tax credit for funding developments in the same manner as an award of Low Income Housing Tax Credits (LIHTC).

LIHTC Exchange Program

- Developments must:
 - meet LIHTC program requirements for affordability
 - demonstrate good faith effort to secure equity investment
- Funds must be disbursed by **December 31, 2010**.
- Agency to provide assistance in the form of a 30 year non-interest bearing deferred loan.

PHFA ARRA Implementation Plan

- ARRA Implementation Plan will cover:
 - Tax Credit Assistance Program (TCAP)
 - LIHTC Exchange Program (Exchange)
 - PHFA to determine resources – based on availability, project attributes, amount of assistance and ability to meet deadlines
- Funding Priorities:
- 2007 & 2008 Projects
 - 2009 Projects
 - Other funding priorities (which may include 4% development using tax-exempt bonds)

ARRA Implementation Plan

- *Key Eligibility Requirements*
 - Ability to commence construction within 60 days from award date
 - Must be demonstrated at time of application
 - 2007-2008 projects must apply
 - 2009 projects may be considered with/without further action
 - No material changes from current approved pro forma
 - **Project's ability to meet TCAP or Exchange program requirements including expenditure timeframes**

ARRA Implementation Plan

- *Selection Criteria:*
 - Site Ownership
 - Site Plan Approval (including zoning and land use)
 - Construction Documents
 - Commitment of all sources of Project funding
 - Building Permits

ARRA Implementation Plan

- Evidence of equity investment or failure to secure equity sufficient for financial feasibility
PHFA to determine that good faith efforts were made
- Status of federal clearances
- Completeness of application
- **Evidence of the ability to complete construction within the ARRA program timeframes**
- **PHFA may amend or modify plan as necessary to meet HUD or Treasury guidance or requirements.**

ARRA Implementation Plan

- Beginning June 1, 2009, project with 2007 and 2008 tax credits may submit an application.
- Applications will be accepted on a rolling basis.
- Development must demonstrate ability to commence construction within 60 days from award date.
- For 2007 & 2008 projects – failure to move forward by October 1, 2009 may result in recapture of tax credit award – **Must demonstrate by September 1, 2009.**
- Funding of 2009 projects made with award of tax credits or supplemental to award of tax credits.

ARRA Implementation Plan

- PHFA will perform:
 - construction oversight functions (including payouts)
 - asset management and compliance monitoring
 - additional reporting requirements – including jobs creation

ARRA Implementation Plan

- Projects with ARRA funds must meet Section 42 rent, income and use requirements.
- Projects must demonstrate continued compliance with any additional requirements promulgated by IRS, Treasury and HUD.

Q & A

**2007-2008 ARRA
APPLICATION CHECKLIST**

Tab A Development Synopsis:

- Provide an explanation of the circumstances leading to the need for TCAP or Exchange Funds, and how the development will achieve a closing within 60 days of an award by the Agency. Include a timeline of the events occurring since the initial Tax Credit award up to the projected closing date.

Tab B Multifamily Housing Application Update:

- Provide a fully completed and executed application update. As indicated above, the Agency will be evaluating requests for ARRA funds based on the initial documentation submitted to the Agency.

Tab C Construction Documents:

- Provide the following items, unless already submitted:
 - 90%-100% completed drawings (2 copies)
 - 90%-100% completed specifications, with Davis Bacon wage rates, if applicable (2 copies)
 - Executed Architectural Contract – AIA Document B141 or B101
 - Construction Contract - AIA Document A101 (draft if not executed)

Tab D Site Plan Approval
(including zoning and land use):

- Submit a copy of the final land development plan, fully approved and executed by all required parties.

Tab E Building Permit(s):

- Submit a copy of the Building Permit(s) or in lieu, a letter from the municipality stating all requirements have been met and the building permit(s) can be pulled at any time. If neither can be provided, submit a letter from the municipality outlining all outstanding requirements, and providing an estimate of how soon the building permit(s) can be issued.

Tab F Clearances:

- Provide the status of any and all Federal Clearances including environmental reviews, State Historic Preservation Office (SHPO) correspondence and/or approvals and include the following:
 - Phase I environmental site assessment
 - Phase II environmental site assessment (if recommended in the Phase 1 report)
 - Lead based paint testing results (if renovating an existing building built before 1978)
 - State Historic Preservation Office (SHPO) letter
 - Part 2 historic approval

Tab G Site Ownership:

- Provide a copy of the recorded deed or executed lease evidencing ownership by the final ownership entity as shown in the initial Tax Credit Application, or current document evidencing site control (i.e. Agreement of Sale, etc.) which demonstrates that the property will be conveyed within the requisite ARRA Program timeframes.

Tab H Construction and Permanent Financing:

- Submit either executed Notes or Financing Commitment Letters for all sources of financing including credit enhancement. Commitment Letters must be current, clearly demonstrate a commitment, evidence any and all closing conditions, and include a timeline for a closing.

Tab I Bridge Loan Financing

- Submit either executed Note or Financing Commitment Letter. Commitment Letters must be current, clearly demonstrate a commitment, evidence any and all closing conditions, and include a timeline for a closing.

Tab J Equity Investment:

- Submit either a current letter from the Syndicator or Investor evidencing the equity investment. If you have not been able to secure an investor, provide a minimum of two letters evidencing a lack of interest or inability to provide equity at terms that are sufficient to make the development financially feasible. Additionally please include a narrative which identifies potential investors proffering unacceptable offers, and why specific terms and conditions were detrimental to the project's feasibility.

Tab J Equity Investment:

- In the event you did not receive written responses to your solicitations for equity, please provide a signed certification describing the steps taken to secure an equity investment and describing the issues inhibiting investor interest including copies of any correspondence evidencing same. The Agency reserves the right to corroborate the facts, and may request additional information from the applicant and/or potential investors. The Agency shall determine if an applicant has met the federal good faith test.
- ANY MISREPRESENTATION BY APPLICANT SHALL DRAW MAXIMUM PENALTIES UNDER PROGRAM REGULATIONS.

Tab K Preservation Developments:

- For projects which require HUD or other Regulatory Agency approval to achieve a loan closing, please provide evidence of submission to the Regulatory Agency prior to the date of the ARRA application and evidence documenting a loan closing will be achieved within the requisite ARRA Program timeframes.
 - In addition to each of the above submission requirements, the Agency reserves the right to require additional information or certifications.

Q & A

**2008
CARRYOVER ALLOCATION**

Carryover Requirements

- If placing in service by 12/31/2009, the cost certification package must be submitted to the Agency by 11/1/2009 OR execute Carryover Allocation Agreement
- Carryover Allocation Agreement will be part of the ARRA closing package
- If ARRA closing does not take place prior to 11/1/2009, the Carryover Allocation Agreement must be executed by that date

Carryover Requirements

- The executed Carryover Allocation Agreement with attached Exhibit A must be returned within 2 weeks of ARRA closing
- Verify information on Carryover Allocation Agreement pertaining to the site and the number of buildings
- Taxpayer shown on Carryover Allocation Agreement must be the party that incurs the expenditures for the 10% test

Carryover Requirements

- 10% test requirements must be met by the earlier of 1 year from the ARRA closing date or by 11/1/2010
- Documentation must be submitted to the Agency within 10 days of the 10% test deadline
- Entity on the Carryover must be the one incurring the 10% costs, and their tax ID number must be on the documents

Q & A

TECHNICAL SERVICES REQUIREMENTS

ARRA Federal Requirements

TCAP

- Section 504
- National Environmental Policy Act (NEPA) review
- Davis Bacon wage rates
- Lead based paint requirements

Credit Exchange

- No requirements

2007 & 2008 ARRA Applications Required Documents

- 90% – 100% completed drawings (2 sets)
- 90% - 100% completed specifications with Davis Bacon wage rates, if applicable (2 sets)
- Architectural Contract (executed)
- Construction Contract (draft if not executed)

2007 & 2008 ARRA Applications Required Documents

- Site Plan Approval
 - Zoning
 - Land Development Plan
- Permits
 - Building Permits, or
 - Letter from municipality stating all requirements met, permits can be pulled later, or
 - Letter from municipality listing outstanding requirements & timeframe for issuing permits

2007 & 2008 ARRA Applications
Environmental Requirements

- Phase I Environmental Site Assessment
- Phase II Report, if required
- Lead based paint testing (renovation of pre-1978 building)
- SHPO letter
- Part 2 historic approval, if applicable

See ARRA Application Checklist at www.phfa.org for more info

2009 Applications

- Submissions the same as '07 & '08 developments, but ARRA application not required

PennHOMES Developments

- In addition to items listed for '07 & '08 developments, must comply with the requirements of the Submission Guide for Architects
- Schematic Design Submission is waived
- Shorter timelines to closing

Technical Services Reviews

- Compliance with certifications made in application
- Accessibility, Visitability & Fair Housing
- General overview of documents
- Compliance with Submission Guide for Architects (PennHOMES developments only)
- Written review comments will be issued, response letter from design professional required
- Environmental Review

Environmental Review

Statutory Compliance Factors

- Air Quality
- Historic Properties
- Floodplain Management
- Wetlands Protection
- Coastal Zone
- Sole Source Aquifers
- Endangered Species
- Wild & Scenic Rivers
- Farmland Protection
- Noise
- Hazardous Facilities
- Airports
- Toxic Chemicals & Radioactive Materials
- Environmental Justice

Impact Categories

- Land Development
- Noise
- Air Quality
- Environmental Design / Historic Values / Urban Impact
- Socioeconomic
- Community Facilities & Services
- Natural Features

Timelines

TCAP - Majority must be closed in early 2010
Exchange - Must be closed by late 2009

9/1/09 - Status of all developments evaluated
(ARRA funds will be withdrawn if progress is insufficient)

Technical Services Closing Requirements

- Final Drawings & Specs (3 sets) w/ Davis Bacon wage rates, if applicable
- Final Construction Contract, w/ PHFA Addendum
- Construction Cost Breakdown – used for monthly payouts
- Bonds or Letter of Credit required from contractor
- PHFA Addendum to construction contract
 - Retainage withheld
 - Start to 50% complete: 10%,
 - 50% complete to Substantial Completion: 5%
 - Substantial Completion to Final Closing: 2½%
 - Liquidated damages
- Architect's Certification of Compliance with Design Requirements for Accessible Housing
- Contractor's & Architect's insurance certificates
- All documents must be submitted before closing will be scheduled

Requirements During Construction

PHFA

- Construction Monitoring (monthly payout meetings)
- Wage rate monitoring (if applicable)

Contractor & Subcontractors

- Monthly summary of jobs created & jobs retained

Q & A

**UNDERWRITING
&
OPERATIONS**

PHFA ARRA Underwriting Guidelines and Fees Schedule

- **ARRA Application Fee**
\$1000 processing fee submitted with application
- **Construction Monitoring Fee**
\$500/month during construction period
- **Commitment Fee**
\$10,000 within 2 weeks of the ARRA Award. Developments that are unable to close the loan within 60 days of the Award will have the award rescinded and the fee forfeited. (applicable to 2007 – 2008 Project only)
- **Asset Management and Compliance Monitoring Fee**
\$800 per unit deposited as an upfront fee

**For Properties without an equity Investor,
the following underwriting guidelines apply:**

Developer's Fee

The amount approved for 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
- 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

Development Reserves (no equity investor)

– **Operating Reserve** – 4-9 months of operating expenses, reserved deposits and amortizing debt service to be held by a third party in a restricted account.

Transformation Reserve – An amount sufficient to cover the ACC subsidy for a period not to exceed 12 months to be held by a third party in a restricted account.

– **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 pledge escrow account.

– **Reserve for Replacements** – Funds must be deposited on an annual basis with an approved third party in a restricted account.

For Properties with no Agency financing utilizing TCAP funds, the development reserves remain as listed on the previous slide. The developer's fee should remain the amount listed as approved in the last allocation award to be disbursed as per the equity provider.

For Properties utilizing Agency Financing and either TCAP or Exchange Funds, the following underwriting guidelines apply:

1. Developer's Fee:

The amount approved for Developer's Fee in the last allocation award to be disbursed as per the equity provider.

2. Development Reserves:

• **Operating Reserve** – 4-9 months of operating expenses, reserve deposits and amortizing debt service to be held by PHFA.

• **Development Contingency Fund** – Applicable to developments with PHFA amortized debt - 4% of the loan.

For Properties utilizing Agency Financing and either
TCAP or Exchange Funds, cont'd

- **Transformation Reserve** – An amount deposited with the Agency to cover the ACC subsidy for a period not to exceed 12 months to be held by a third party (or the Agency if first mortgage financing) in a restricted account.
- **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 Replacement** – Funds to be deposited as per PHFA requirements and held by the Agency.
- **Tax and Insurance Escrows** – The first year tax & insurance estimates are required to be funded two months prior to construction completion.

Operating Budgets

- Insurance
- Taxes
- Investors Service Fee
- Operating Numbers

Financial Reporting Requirements

- Agency Financed
(PennHOMES or First Mortgage)
 - Audited Financial Statements
 - Budget
 - Quarterly Operating Reports
- No Agency Financing (ARRA only)
 - Audited Financial Statements

Q & A

**HOUSING MANAGEMENT
SUBMISSION
REQUIREMENTS**

- PROPERTIES WITH PENNHOMES IN PJ'S & NON-PJ'S**
- MANAGEMENT AND MARKETING PLAN / TENANT SELECTION PLAN
 - AFFIRMATIVE FAIR HOUSING MARKETING PLAN (AFHMP) WITH PHFA ADDENDUM
 - LEASE + ANY ADDENDUMS + PHFA ADDENDUM
- IN ADDITION - FOR PROPERTIES IN NON-PJ'S**
- AFFIRMATIVE ACTION PLAN (TAB 8)
 - SECTION 504 SELF EVALUATION PLAN (TAB 15) ENSURES NON-DISCRIMINATION BASED ON DISABILITY

**PROPERTIES WITH TCAP FUNDING
AND NO PENNHOMES**

**NEED TO ONLY SUBMIT THE FOLLOWING
FOR MANAGEMENT PURPOSES**

- AFFIRMATIVE FAIR HOUSING
MAKETING PLAN (AFHMP)
- SECTION 504 SELF EVALUATION PLAN

**PROPERTIES WITH TAX CREDIT
EXCHANGE FUNDING ONLY**

- NEED NOT SUBMIT ANY ADDITIONAL
MANAGEMENT DOCUMENTS FOR
REVIEW

NOTE

ALL NORMAL PROGRAM
COMPLIANCE REQUIREMENTS APPLY

FOR MORE DETAILED INFO

REFER TO WWW.PHFA.ORG

- PRE-PROCESSING MANUAL
- PROPERTY OPERATIONS MANUAL
- TAX CREDIT COMPLIANCE MANUAL

Q & A

Payout Procedures

General Information

- PHFA will be the Disbursing Agent if there is PHFA financing. (First Mortgage or PennHOMES)
- PHFA may require a 3rd party (i.e. title agent, lender, etc.) to act a disbursement agent of ARRA funds.
- Disbursements will be handled according to a mutually agreed upon schedule.
 - Disbursements may be made directly to vendors or the partnership.

Order of Disbursement

- TCAP / Exchange funds may be disbursed first.
- Soft funds (i.e. Local HOME/CDBG, FHLB funds, Housing Trust funds, Grants, etc.) may follow ARRA funds.
- If PHFA is financing deal with PennHOMES and no ARRA funds, Penn HOMES may be disbursed pro rata with owner's equity.
 - Owner's equity is the amount necessary to fund Replacement costs plus all Agency held reserves and escrows.
 - Owner's equity is deposited with the Agency monthly as required to fund a construction draw.

Order of Disbursement

- Finally, any remaining construction or bridge loans will be disbursed.
- The process will be documented in a Disbursement Agreement executed by all parties at initial construction loan closing.

Important Reminders

When negotiating a draw schedule with your equity provider, remember the following:

- There must be sufficient equity available to fund all replacement costs and reserves within the construction period.
 - Reserves must be funded 10 months from the start of construction or sixty day prior to substantial completion, which ever is sooner.

Important Reminders

- Payment of a months requisition will not occur until the Agency is in receipt of all funds needed to make such payment.
- Knowing the equity providers procedure for obtaining funds will move the process along quickly.
- If your project has a pending disbursement clause in its title policy, we cannot fund a payout until a current bringdown is received.
- **Be mindful of ARRA program funding deadlines**

General Payout Procedures

- PHFA will not advance any ARRA funds (paid on a reimbursement basis only).
- Generally submitted on a monthly basis
- PHFA staff attends monthly payout meetings
- Normal processing time is seven business days.

For timely processing

- As soon as possible following each monthly construction payout meeting, prepare the payout application and forward to PHFA.
- Two copies of AIA form (G702 G703), P2 form, all Invoices and Receipts must be provided with each payout application.
- A title bringdown, if required.
- Coordinate equity deposit with investor.
- A delay in any of the above will add to processing time.
- PHFA will require strict adherence to timelines for payouts.

Initial Payout Procedure

- Application deadline is one week prior to PHFA scheduled closing.
- Application must include:
 - PHFA form P1
 - AIA for any construction related costs
 - Invoices
 - Cancelled checks for invoices that require reimbursement
 - Documentation of project funds received and spent prior to PHFA closing
 - ARRA Funds will be reimbursed only.

Conclusion

- All ARRA funds must be expended by December 31, 2010 (Exchange) or February 16, 2012 (TCAP).
- All paperwork must be submitted to ensure timely disbursement.
- Feel free to contact me with any questions. kwilson@phfa.org

Q & A

What's next?????

- Development Officer/Tax Credit Officer chief point of contact.
- PHFA to issue Reservation/Award Letter.
- Must return ARRA Checklist with estimated submission dates with signed reservation/award letter.
- Proceed to loan closing.
- All documents must be received prior to scheduling closing date.

Additional Federal Guidance

- TCAP Allowable Fees and Expenses
- TCAP Asset Management Requirements
- Exchange expenditure timelines
- Recapture provisions

Worth Repeating

- Expenditure Timelines & PHFA processing deadlines
 - September 1, 2009 – Status Report
 - February 16, 2010 – 75% of TCAP commitment
 - December 31, 2010 – Expenditure of Exchange
 - February 16, 2011 – 75% of TCAP spent
 - February 16, 2012 – Expenditure of TCAP

Continue to check for updates and additional multifamily program information www.phfa.org

Additional HUD guidance available at www.hud.gov/recovery

Additional Treasury guidance available at www.treasury.gov/recovery

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