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DATE: October 30, 2009
TO: Low Income Housing Tax Credit Stakeholders
FROM: William J. Pavão, Executive Director
SUBJECT: Implementation of TCAC's Waiting List Provisions for 2009

This memorandum summarizes how the California Tax Credit Allocation Committee (TCAC) intends to establish and access a nine percent (9%) credit waiting list for 2009 credit applicants.

Each year TCAC establishes a waiting list of unfunded 9% applications consistent with regulation Section 10325(h). Paragraph (1) of that section states that:

If Credits are returned from projects originally funded under current year Set-Asides or Geographic Apportionments, applications qualifying under the same Set-Aside or Geographic Region will be selected in the order of their ranking.

Earlier-year (this year, pre-2009) returned credits would be made available first to projects that unsuccessfully competed within a region that did not access all of its available credits.¹ (Section 10325(h)(2))

This year, TCAC staff expects a large number of 2009 credits may be returned due to a lack of equity partner interest in the available credits. Under the American Recovery and Reinvestment Act of 2009 (ARRA), TCAC expects to exchange in the permissible maximum of California's 2009 9% credits totaled \$84,540,332 in annual federal credit. The 40 percent (40%) exchange maximum would be $\$84,540,332 \times 40\% = \$33,816,132$ in annual federal credit.

TCAC staff has disclosed publicly that the Committee has forward-committed 2010 credits, now tallying \$7,849,629. Staff further disclosed at the September 10, 2009 Committee meeting our intention to backfill that forward commitment with any surplus returned 2009 9% credits. Therefore, we are unlikely to have credits available for waiting list awards unless we receive back more than $\$33,816,132 + \$7,849,629 = \$41,665,761$ in 2009 returned credits.

¹ This happens when the next ranked application is requesting more than twice what remains in the apportionment, or would cause the region's total amount awarded to exceed 125% of the original apportionment. In such cases, a region's apportionment is not fully utilized.

Any surplus 2009 credits remaining available for waiting list awards would be untraceable back to their set-aside or geographic apportionment of origin. Therefore, Section 10325(h)(1) is practically pre-empted by the exchange provisions of Section 10323(d)(2)(B), which describes how 2009 credits shall be exchanged for federal ARRA funds.

Since the ARRA exchange process supersedes the first waiting list protocol, TCAC would first award remaining credits to projects in geographic apportionments that had an unused balance of credit apportionment pursuant to Section 10325(h)(2). Then, if credits still remain available, TCAC would fund projects off of a general list of projects ranked by their score and final tiebreaker, consistent with Section 10325(h)(3).

The TCAC-approved waiting list is posted on the TCAC website at <http://www.treasurer.ca.gov/ctcac/2009/application.asp>.