

Memorandum To: 2005 First Round Applicants

From: Lynn Wehrli, Executive Director

Date: March 4, 2004

Re: Prevailing Wages and New Application Requirements for First Round

As many of you know, the Department of Industrial Relations issued prevailing wage coverage determinations on two of our tax credit projects last Friday. Briefly, DIR determined that federal tax credits and tax exempt bond financing are not subject to prevailing wage requirements. In the long run this will reduce project costs and enable us to fund more of the many projects proposed. However, many people expect that an appeal will be filed within the 30 day time frame allowed. This will produce continued uncertainty with respect to development costs, and coming so near our first round application deadline, requires some adjustment to our application requirements and procedures.

Our objectives in developing the approach described below include maintaining our schedule for both regular funding cycles, avoiding disruption to scoring and tie breaker rules, eliminating the need for immediate regulatory changes, minimizing extra work for applicants, and establishing baseline costs and tax credit amounts for each project in case prevailing wages remain unnecessary. Several strategies have been considered but the one outlined below best meets these objectives.

For this round a few unusual requirements will apply. First, all applications must be based on the assumption that prevailing wages will apply: All development budgets and all other documentation must include the estimated costs of prevailing wages. Due to the uncertainty of the outcome of the DIR appeal process, we expect that most applicants are already proceeding in this manner. However, using construction budgets without prevailing wages would give applicants an advantage in the third, cost-based tie breaker. Furthermore the addition of prevailing wage costs later could result in infeasibility. Part VIII of the application form, "*Basis, Credit Amounts, Operating Expenses & Income*" has lines for "Prevailing Wages" in both the Rehabilitation and New Construction sections. Estimated prevailing wage costs and data for all other relevant columns must be entered in the appropriate one of these two lines, and no prevailing wage costs may be included in any other lines. Each application must also include a new attachment, which is a contractor's certification of cost reasonableness. We recognize that contractors may not have been selected at this point, but we expect that discussions will have taken place and that a contractor can provide a certification. The form to be used is attached to this memo.

In its review TCAC will exclude the contractor certified prevailing wage cost from the total development budget to calculate a second tax credit estimate. Reservations will be based on prevailing wage numbers, but the second tax credit amount will be included in TCAC's initial reservation letters as well.¹ This baseline, non-prevailing wage number will help us to manage credit allocations throughout the year and avoid unnecessary inflation of costs in funded projects so that more projects can be funded if the prevailing wage question is resolved in the short term. We understand that your decisions on budgets, financing and construction contracts will have to be made within the next several months, so we will monitor the situation closely and make subsequent decisions concerning final credit amounts as necessary.

¹ If your project is subject to prevailing wages as a result of other financing, and you wish to avoid TCAC's second tax credit estimate (non-prevailing wage number) in your reservation, a tax professional's opinion verifying the applicability of prevailing wages must be submitted.

CONTRACTOR'S CERTIFICATION

PROJECT IDENTIFICATION

NAME OF PROPOSED PROJECT _____
PROPOSED LOCATION _____
SPONSOR/DEVELOPER _____

CERTIFICATION

I hereby certify that I have reviewed or prepared the estimated construction cost budgets for the above cited project. I have determined that the numbers below reflect reasonable estimates based on my knowledge of the construction costs for multifamily dwellings in the location proposed, at this point in time. These estimates do not represent any contract or commitment on my part to undertake construction of the project.

Total Costs With Prevailing Wages* \$ _____

Total Costs Without Prevailing Wages \$ _____

Difference Attributable to Prevailing Wages* \$ _____

*Amounts entered must match the corresponding amounts entered in the Applicant's application in Part VIII.

Signed _____ Date _____

(Name Printed)

(Title)

(Company Name)

(Company Address)

(Phone Number)