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Date: June 3, 2009

To: 2009 Low Income Housing Tax Credit Stakeholders

From: Anny Beeson, Development Manager

Subject: 2009 Application Workshop Questions and Answers -- UPDATED

This memorandum provides clarification and responses to additional questions need to be addressed in anticipation of the upcoming round. We have kept the original version, further clarified some answers (for questions 7, 13, 17, and 28), while adding a few new Questions and Answers (2, and 34-40).

If you have any questions regarding the Q&A's, please contact your regional analyst at (916) 654-6340 or <http://www.treasurer.ca.gov/ctcac/assignments.pdf>

## 2009 Workshops Questions and Answers

**1. What underwriting parameters will TCAC employ when evaluating final tiebreaker private funding sources?**

Under the authority granted by Section 10325(c)(10), TCAC will employ the following parameters for private funding sources to assure reasonableness:

Amortization period: 30 years

Minimum interest rate: 6.5 percent (6.5%)

Debt Service Coverage Ratio: 1.15 to 1.

For purposes of the final tiebreaker TCAC will not count as a commitment any incremental loan amount that is based on terms that are outside of TCAC's parameters. In effect, TCAC will calculate the loan amount using TCAC's parameters/standards and use the lesser of the TCAC determined loan amount or the application loan amount in the final tie-breaker calculation. Also note, these underwriting parameters are being employed for the final tiebreaker private funding sources regardless of whether one has built TCAP loan funds into their application.

Stakeholders have noted that RHS 538 and HUD 221(d)(4) guaranteed private loans have 40 year amortization periods. Therefore, we will use a 40 year amortization for those publicly-insured private loans only.

**2. Would TCAC use more generous underwriting parameters for federally-guaranteed private financing, such as RHS 538, or HUD Section 221(d)(3) or (4)?**

Yes. TCAC would use a 40 year amortization period assumption, rather than 30 years for either of these two types of federally-guaranteed loans. However, applicants must demonstrate that they have an RHS 538 application pending with the federal Rural Housing Services, or an initiation to apply for a Section 221(d)(3) or (4) Firm Commitment and a pending application for such a Firm Commitment.

**3. Must a 2009 applicant for 9% credits plus American Recovery and Reinvestment Act of 2009 (ARRA) funds budget to pay prevailing wages?**

Yes. The federal cash source for gap financing will be Tax Credit Assistance Program (TCAP) funding. These funds invoke federal prevailing wages. If the project ultimately does not invoke Davis Bacon requirements, TCAC would reduce the basis limit increase, prevailing wage budget line item, and credits accordingly.

**4. Must a 2009 applicant 4% credits account for prevailing wages in the application's development?**

If the project sponsor anticipates competing for ARRA funds, yes. Any cash award to 2009 4% applicants would be TCAP funds, which invoke Davis Bacon requirements.

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- 5. If a 9% applicant does not request any of the available \$0.12 in ARRA funding, must they build in prevailing wage assumptions?**

Not if ARRA funds would have been the only source triggering prevailing wages. However, sponsors will not be able to request any additional ARRA funds other than those requested within the initial tax credit application. A sponsor will have no other opportunity to request ARRA gap financing later.

- 6. If an applicant builds in prevailing wage assumptions, but ultimately prevailing wages are not invoked by sources, could TCAC adjust the awarded application?**

Yes. As described in answer #2 above, this could result in fewer credits.

- 7. Will ARRA Funds be in the form of a grant or a loan?**

We intend to make these 55-year, zero-interest, fully deferred loans secured by a Deed of Trust.

- 8. Would awarding TCAP funds to the general partner avoid prevailing wage requirements?**

No. TCAP funds will be awarded to the original applicant.

- 9. Is the “Buy American” provision of ARRA applicable to tax credit projects?**

No.

- 10. May a sponsor exchange a portion of a project’s tax credits for cash?**

Yes, 2007 and 2008 9% projects with an equity partner may exchange a portion of the total tax credit award; however, this option would not be available for 2009 9% award recipients. 2007 and 2008 4% reservation-holders may also propose a partial cash-in-lieu of credits award when applying to compete for ARRA funds.

- 11. If a project has 2008 4% credits, but lost its bond allocation, could it apply for cash in lieu of credits? Could it then replace its bond allocation with a private loan?**

Yes, per regulation Section 10323(d)(3)(A).

- 12. Would either TCAP or Section 1602 funds trigger the Uniform Relocation Act?**

No.

## 2009 Workshops Questions and Answers

**13. Does TCAC require final approval of relocation plans if required to finalize funding commitment?**

Yes, if a project anticipates resident displacement, a final relocation plan is required in the original tax credit application by Section 10322(i)(6).

If the funding commitment calls for a final relocation plan as a condition of funding, then TCAC would expect to see a final relocation plan when the application is submitted on June 9.

**14. Would TCAC award additional dollars to 2009 9% applicants, beyond the requested credits and federal cash subaward under Section 10323(c)(3)?**

No. The Section 10323(c)(3) refers to added costs where an earlier-awarded project had not envisioned paying prevailing wages. For example, a 2008 credit recipient that had not taken the 20 percent basis limit increase but now receives TCAP funds would incur additional Davis Bacon costs.

2009 competitive applicants requesting federal dollars along with credits must assume and budget for prevailing wage costs within their original credit application. Section 10327(c)(5) accounts for prevailing wage costs by providing a basis limit increase for such projects. This increase could result in additional awarded credits and, in 2009, additional federal cash for the project. In this way, the Section 10323(c)(3) "additional cost" provision is not invoked and TCAC would award no additional cash beyond the 12 cents per federal credit, and 9 cents per state credits.

**15. When requesting ARRA funds, what is the minimum debt service coverage ratio (DSCR) required and how's it calculated?**

TCAC requires a 1.15 to 1 DCR in this instance, which is calculated using TCAC's underwriting standards.

**16. Must a special needs or remote rural project submit an equity partner letter of interest even where investor interest in such projects is nonexistent?**

Section 10322(h)(18) requires a written estimate from a syndicator or consultant stating the "equity dollars expected to be raised for the proposed project." This year **only**, Special Needs, SRO, Homeless, Rural, and At-risk projects may submit a syndicator or financial consultant letter explaining that the authoring syndicator or consultant does not expect to raise equity for such a project. The letter should note the unusual current equity market that makes the prospect for finding an investor for such a project remote. However, if the project receives a reservation, the sponsor must still meet the federal "good faith effort" requirement if they ultimately wish to compete for cash in lieu of credit later.

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- 17. Obtaining a syndicator's letter for a rural project is very difficult. May an applicant just assume \$0.80 in the application and expect to compete for a cash in lieu of credit award?**

Yes, an applicant may use an \$0.80 credit pricing assumption if they cannot obtain a syndicator or consultant to estimate a credit price (see answer to question 16 above).

- 18. How will TCAC view projects anticipating Mental Health Services Act (MHSA) funding? With which agency must an application be pending by June 9<sup>th</sup> in order to qualify as a public funding source?**

Applicants anticipating MHSA funding must have an application pending with the California Housing Finance Agency (CalHFA) by the June 9<sup>th</sup> application deadline. The tax credit application must show evidence that CalHFA has received and is reviewing such an application, and an award of MHSA funds from CalHFA must be provided by August 17<sup>th</sup> in order to meet TCAC's application threshold and receive readiness points.

- 19. Assume a tax credit applicant with a pending CalHFA MHSA application is approaching the August 17<sup>th</sup> award deadline. May the applicant substitute another public funding source in for the MHSA funding by August 17<sup>th</sup>?**

No. TCAC will not allow the substitution of proposed funding commitments during the round. Such a substitution would constitute an impermissible application change under Section 10322(f).

- 20. Where a local public funding source is a land donation, may a pending Disposition and Development Agreement (DDA) by June 9<sup>th</sup> suffice? Would this pending DDA also meet the site control threshold requirement?**

Yes, a pending land donation from a local public funding source may be documented through a pending DDA on June 9<sup>th</sup>. This would also meet the site control threshold so long as the executed DDA is presented to TCAC by August 17<sup>th</sup> demonstrating that the local agency has agreed to deliver the land to the sponsor. Please do not assume that you will get forbearance on any other site control.

**Please note:** Section 10325(f)(4) does require that the local land use approval and zoning must be in place by the application deadline.

- 21. If TCAP triggers NEPA will the federal environmental review need to be completed by August 17<sup>th</sup> in order to receive readiness points?**

No. If TCAP funding alone would invoke NEPA, a sponsor need not have completed the NEPA process by August 17<sup>th</sup>. Only if awarded such funding would a sponsor need to meet NEPA requirements.

## 2009 Workshops Questions and Answers

- 22. If a sponsor gets better equity pricing than anticipated in application, may they reduce local public financing?**

No. However, TCAC would consider approving reduced conventional debt and corresponding rent reductions in the event equity causes sources to exceed uses. TCAC would also allow deferred developer fee to be paid out of development funding sources with the additional equity.

- 23. Assume an applicant estimates \$0.70 equity pricing and requests \$0.08 ARRA funding for a total of \$0.78 per tax credit dollar. But at the 90 day readiness deadline they obtain only \$0.68 equity pricing plus the \$0.08 TCAP for a total of \$0.76. May they apply for the lost \$0.02?**

No. Sponsors would only receive up to the cash reserved for their project in the original competition.

- 24. May a public school that is well under construction and will be complete by the time the project is placed in service receive site amenity points?**

Yes, but this exception is only available for public schools. We will need documentation from the school district addressing that it will be completed by the PIS date, and that the tenant's children may attend that school. Applicants must contact their regional analyst in advance of the application deadline and confer regarding this matter.

- 25. A senior project is near a community center that has activities for seniors, but it is not exclusively a senior center, but instead a more general community center. Would this qualify as a senior center for site amenity points?**

Applicants must submit the information on such a project and the community center prior to the round for TCAC consideration.

- 26. Assume a local government helps purchase land and buildings that will be demolished to develop new housing. Further assume that the buildings add no value within the appraisal. Should an applicant discount the land value by cost to demolish the buildings even though appraisal did not breakout any value for the to-be-demolished buildings (assumed \$0 value for buildings)?**

Yes. The value of the land should be decreased the cost of the demolition of the structure.

- 27. Assume 20 units are being demolished and 100 units are being developed for a tax credit project? Further assume that the local impact fee is on the net additional 80 units. May the foregone fee on the 20 units be counted as a waived impact fee?**

No. The locality is levying the fee, appropriately, on the net 80 unit impact. In essence, they are concluding no impact associated with the original 20 units, hence no

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fee.

- 28. A recent IRS private letter ruling found that off-site costs may be included in eligible basis under certain circumstances. May these costs be added to basis just as an impact fee is?**

Yes. In the Sources and Uses Tab, page 24 of the Application, go to cell A80 and list the offsite and accompanying residential cost in cell C80. The off-site item must be includable in basis as certified by your tax professional.

However, unlike Impact Fees, there is no threshold basis limit adjuster allowed by regulation.

- 29. Are the units limitation under section 10325(f)(9) based on a 12 month period or calendar year?**

The total unit restriction upon related-party developments is limited within a 12-month period.

- 30. Should the Limited Partnership Agreement be in initial or final form at the 150-day deadline?**

Final form.

- 31. Where is information on pre-qualification of general partner and management company experience points?**

TCAC has discontinued the pre-qualification process for these point categories.

- 32. Would TCAC consider a local government contributing land to be paid for over time as seller carry-back financing for purposes of the final tiebreaker?**

No. This would be considered public funding.

- 33. Must an applicant project with HUD funding use HUD's Utility Allowance Calculation standard?**

Yes, by federal regulation HUD-regulated buildings must use the applicable HUD utility allowance. Confer with the appropriate HUD or local housing authority official to determine if you may use the HUD Utility Schedule Model in such circumstances.

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- 34. May any ancillary costs be included in the Land Cost line item of the development budget other than the actual land cost/purchase price indicated on the Purchase and Sale Agreement?**

Yes, limited ancillary costs associated with the land purchase such as title recording, escrow fees, and transfer taxes may be included. However, other predevelopment carrying/holding costs such as, but not limited to, interest on a land loan, special assessments, and property taxes may not be included. Contact your regional analyst directly if you are uncertain as to what might be includable.

- 35. Does the LRA have to receive their copy of the application on the same day TCAC receives the application?**

The LRA copy of the application should be sent to the LRA simultaneously with the TCAC submission. TCAC expects proof no later than June 12<sup>th</sup> that the LRA received their copy of the application.

- 36. Who will be the NEPA reviewing agency when the only funding source requiring NEPA is TCAP funds?**

It is the responsibility of the developer to complete and submit the completed NEPA package to TCAC. Please refer to the NEPA link on our website; more information will be posted there regarding NEPA.

- 37. Can solar tax credits be shown as a committed permanent funding source for projects that installing solar panels? It is not possible to obtain a commitment letter from the IRS, but the credit is automatic provided the costs are incurred. If solar credits can be shown as a source, what line in the application can be used to reduce eligible basis by 50% of solar credit? Will the solar credit count as a public funding source for purposes of the tiebreaker?**

No, that would not be considered a committed permanent funding source.

- 38. When measuring square footage in a unit, what does "living space" mean? For example, I have a large family project and your regulations state that the "One-bedroom units must include at least 500 square feet and two-bedroom units must include at least 750 square feet of living space."**

Living space means all interior space including space devoted to cabinetry/closets etc., but does not include any exterior spaces (such as storage on patios) that is not directly accessible from the interior of the apartment.



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- 39. If for some reason we don't get city sign off on any items on Form 18(A) (Local Development Impact Fees), please explain the documentation process required to include items in basis.**

Provide TCAC with a current rate schedule along with a summary of the rate schedule, and show us details of how you arrived at fees. Also add the fees to the Form 18(A) and sign your part of the form.

- 40. If we won't have a soft funds commitment by June 9<sup>th</sup>, what do we provide in the application documenting our intention of including that commitment prior to Aug 17<sup>th</sup>?**

An initial public commitment is sufficient to submit with your application along with evidence of submittal/pending application. All final commitments/local approvals need to be submitted to us by August 17, 2009.