

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: May 22, 2009
TO: Low Income Housing Tax Credit Stakeholders
FROM: William J. Pavão, Executive Director
SUBJECT: Statement of Intent to Accept Tax Credit Assistance Program (TCAP)
Funds

On May 4, 2009, the U.S. Department of Housing and Urban Development (HUD) released Notice CPD-09-03 regarding the Implementation of the Tax Credit Assistance Program (TCAP).

As part of this process, the California Tax Credit Allocation Committee (TCAC) must submit an application for TCAP funds. Section III. D. of the Notice states “the state housing credit agency must make its project selection process and criteria available to the public and accept comments from the public for a period of not less than five days.” The attached document is posted for public comment until Friday, May 29, 2009.

Be advised that TCAC will propose amendments to the existing Regulations to address any changes required by HUD within this submission, as well as other clarifying changes and adjustments. TCAC will post those recommended changes in the coming month and conduct a public comment period.

Interested persons wishing to express their views on the attached document may submit written comments to the TCAC at the above address by **5:00 P.M. May 29, 2009**.

For Additional Information

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This notice may also be found on the following Internet site:

www.treasurer.ca.gov/ctcac

California Tax Credit Allocation Committee
Application
Tax Credit Assistance Program Funds

A. Statement of Intent to Accept TCAP Funds:

- 1) The California Tax Credit Allocation Committee (TCAC) intends to accept the entire amount of its TCAP formula allocation of \$325,877,114.
- 2) TCAC does not administer any other federal grant funds.
- 3) TCAC will allocate 2009 Low Income Housing Tax Credits (LIHTC) through one competitive round. The application deadline is June 9, 2009. Awards are scheduled to be made on September 9, 2009.
- 4) TCAC contact information:

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B. Description of Competitive Selection Criteria:

Applicants for TCAP funds shall have received and accepted a reservation of Low Income Housing Tax Credits (tax credits) between October 1, 2006 and September 30, 2009. The tax credit reservation may have been for either credit ceiling (9%) or tax exempt bond (4%) projects. TCAP funds will be made in the form of grants and/or loans to fill funding gaps or in lieu of tax credits for both federal low income housing tax credits and California State Credits. If required by HUD, TCAC shall require that all TCAP fund recipient projects have at least a nominal amount of tax credits remain in the project and comply with the associated Section 42 requirements. TCAC defines nominal as at least \$1,000 worth of federal tax credits (\$100 of annual federal tax credits). A copy of the regulations and scoring criteria for TCAP funds is included as "Attachment A". TCAC shall amend the attached regulations to reflect superseding guidance provided by HUD and U.S. Treasury.

TCAP funds will be awarded as follows:

- 2007 and 2008 9% tax credit projects that successfully competed in the scoring system as stated in the TCAC Qualified Allocation Plan (QAP) for those years but have been unable to obtain investor equity may apply for TCAP funds over-the-counter until June 30, 2009 for a grant in lieu of the tax credits. The grant amount shall be 85 cents for every currently reserved federal tax credit dollar and 60 cents for every currently reserved California State Credit dollar. The maximum cash

award shall not exceed \$17 million. The tax credits shall be returned if TCAP funds are awarded.

- 2007 and 2008 LIHTC projects that successfully competed for and possess a 9% tax credit reservation and that have an equity investor but still have a funding gap may apply and compete for TCAP funds using the scoring criteria listed below. TCAP funding will not exceed 15 cents per reserved federal tax credit dollar, and 10 cents per California State Credit dollar.
- 2009 9% tax credit applicants will apply and compete for both tax credits and TCAP funds in the amount of 12 cents per federal tax credit dollar. Application will be scored using the criteria stated in the TCAC QAP. In addition, applicants may apply for up to 9 cents per California State Credit dollar. The scoring criteria are enclosed as “Attachment B” of this document, page 4.
- In recognition of the difficulty certain project types have experienced in obtaining an equity partner, TCAC will allow Special Needs, Homeless Assistance, or SRO projects applying for 2009 cash in lieu of credits to return their federal and any State credit reservation, and TCAC shall exchange all such returned federal credit to the Secretary of the Treasury as part of its grant election amount. TCAC shall award these TCAP funds in reliance on the competition described in Section 10325(c) to the applicant Special Needs, Homeless Assistance, and SRO projects subject to TCAC confirming the project’s feasibility.
- 2007, 2008 and 2009 4% LIHTC projects that received a reservation of tax credits prior to September 30, 2009 shall compete for a portion of the TCAP funds using the scoring criteria listed below. There will be two competitions for 4% projects to compete for TCAP funds. Applications are due July 1, 2009 and October 26, 2009. Awards will be made August 5, 2009 and November 18, 2009.
- TCAC may provide cash awards to projects that also have funding commitments from programs receiving AB 55 loans through the State’s Pooled Money Investment Account (PMIA). Assistance shall be provided in concert with sub awards for equity assistance and pursuant to the same awards systems used for equity assistance. Any funds provided shall be conditioned upon repayment by the State Department of Housing and Community Development. These funds shall remedy gaps in construction-period financing, and shall be in addition to funds mitigating equity gaps as described in Section 10323(c)(2). TCAC will establish a designated amount to be used for that purpose.

TCAP Scoring Criteria

To be eligible for TCAP funds, applicants must certify that they will adhere to the original tax credit required placed-in-service and project completion timelines for the project. TCAP applicants must also certify that they will expend all funds within three years. If the above threshold criteria are met, competitors shall be scored and ranked competitively based upon the following criteria alone. All scoring information shall be drawn from the originally scored tax credit application with supplemental information as requested by CTCAC.

- (i) Project type (50 points). Projects shall earn points as no more than one project type as follows:
- Special Needs, Homeless Assistance, and SRO projects meeting the requirements of Section 10325(g)(4) 50 points
 - Rural projects meeting the requirements of Section 10315(c) 30 points
 - At-risk projects meeting the requirements of Section 10325(g)(5) 30 points
 - Family projects meeting the requirements of Section 10325(g)(1) and senior projects meeting the requirements of Section 10325(g)(2) 10 points
 - All others 0 points

(ii) Cash award requested (100 points).
 Projects shall earn points based upon the cash requested in inverse relation to total project costs. Lesser cash requests relative to total project costs will garner higher scores. Where “N” equals the percentage the cash request represents relative to total project costs, points = 100-N. (Example: Where the cash request N equals 60% of the project cost, the applicant’s score would be 40.)
 Rehabilitation projects, except for At-Risk projects, may access these points only if the per-unit rehabilitation hard costs equal \$40,000 or greater.

(iii) Average Affordability (100 points).
 Projects shall earn 5 points for every one percent (1%) that the project’s average affordability would be below 60 percent (60%) of Area Median Income (AMI). While CTCAC’s Regulatory Agreement shall regulate specific numbers of units at income levels specified in the application, this scoring factor would be based upon a calculation determining the project’s average overall affordability. (Example: A project with an average affordability of 50% of AMI would garner the percentage below 60% (10) times 5 points, or 50 points). An average affordability of 40% of AMI would garner the full 100 points. Units with project-based rental or operating subsidy such as Section 8, HUD Project Rental Assistance Contracts (PRAC), Mental Health Services Act (MHSA), McKinney Act subsidies, or CTCAC-approved locally-funded operating subsidy programs shall be assumed to serve households at 40 percent (40%) of AMI, unless regulated to a lower level.

An award of LIHTCs is defined as TCAC’s receipt of an executed reservation letter bearing the applicant’s signature accepting the reservation with twenty (20) calendar days of TCACs notice to the applicant of the preliminary reservation; and either TCACs receipt of the performance deposit for 9% LIHTCs or a reservation fee of 1% of the annual Federal Tax Credit reserved for Tax Exempt Bond (4%) LIHTCs. For 2009 9% and 4% plus-state awards only, an award shall be the reservation of LIHTCs as of the dated preliminary reservation letter. However, the recipient project sponsor must execute the reservation letter and submit the required performance deposit within 20 days following award to remain eligible for ARRA funds.

C. Commitment and Expenditure Deadlines:

The funds will be awarded through several competitions during calendar year 2009. TCAC intends to commit all TCAP funds by December 31, 2009.

TCAC will closely monitor expenditure deadlines established in written agreements with the project owners. If a project owner fails to expend TCAP funds in a timely manner, TCAC will assess whether the delay will affect their ability to meet TCAP deadlines as defined in the written agreement between the owner and TCAC. TCAC will take the necessary steps to disencumber the funds and redistribute them to a project that has competed successfully and commits to meeting the deadlines.

In addition, TCAC may accelerate funding disbursements in conformance with federal cost reimbursement requirements in order to meet federal expenditure deadlines.

TCAP recipients must adhere to the original tax credit required placed-in-service and project completion timelines for the project, however the TCAC Executive Director may adjust interim deadlines and/or extend placed-in-service deadlines up to six (6) months for projects receiving cash in lieu of credit awards.

D. Recovery Act Accountability and Transparency Requirements:

The TCAC website at www.treasurer.ca.gov/ctcac contains the criteria for awarding TCAP funds to eligible projects. All projects selected for TCAC awards will be posted on the website, including the amount of award, the project name, address and sponsor.

TCAC will comply with all reports to the Department of Housing and Urban Development (HUD) within ten (10) days after the end of each calendar quarter starting on June 10, 2009. The report will include all information as required by TCAP grant agreement.

TCAC published selection criteria for TCAP funds and issued a Notice of Public Hearing on March 17, 2009. The public comment period was twenty-two (22) days and ended on April 7, 2009.