

## Tax Credit Exchange (TCX) Subsidy Round

### **Authority**

Authorized under Section 1602 of the American Recovery and Reinvestment Act of 2009 (ARRA), HMFA exchanged a portion of its 2009 Housing Credit ceiling for cash assistance from the U.S Treasury. At this time, the HMFA's Tax Credit Committee has approximately \$11M in TCX funds to allocate to eligible projects.

The Tax Credit Committee is permitted to continue disbursing TCX funds after December 31, 2010 subject to the following conditions.

- a) A subaward (legally binding written agreement) has been made on or before December 31, 2010.
- b) The subawardee has, by the close of 2010, paid or incurred at least 30 percent of the subawardee's total adjusted basis in land and depreciable property that is reasonably expected to be part of the low-income housing project.

### **Selection Criteria/Funding Priorities**

As part of the TCX Selection Criteria approved by the HMFA Board on Aug. 20, 2009, these awards will continue under Funding Priorities #2 and #3.

Time is of the essence. Therefore, the Tax Credit Committee will accept applications until noon on November 16<sup>th</sup>, 2010. Awards shall be made starting with the project, as of the application deadline, requesting the least amount of exchange proceeds per affordable unit until the funds are exhausted. Projects must demonstrate a need for no less than \$2 million in gap financing.

**TCX awards shall not be used to replace a permanent funding source already committed to the project and is not permitted to be used as a bridge or construction loan to be repaid at a later date. TCX awards shall not be used to reduce deferred developer fee below 75%.**

Note: The Board approved Selection Criteria permits the Tax Credit Committee to limit the number of awards to any one project type/location in order to ensure the equitable distribution of exchange proceeds across the state and among project types. The Tax Credit Committee reserves the right to cancel this funding round at any time and for any reason.

## **Eligible Projects**

Time is of the essence. Given the strict federal expenditure and closing deadlines associated with TCX, eligible projects must meet ALL of the following requirements as of the application deadline (unless otherwise stated below).

- a) Projects shall have received a 9% tax credit award or a Section 42(m) determination letter and executed a limited partnership agreement with their tax credit investor, if applicable. If the project no longer has its allocation, a project may still be eligible if, in addition to satisfying all other criteria herein, it can objectively demonstrate that the use of TCX funds will increase the total funds available to the State to build and rehabilitate affordable housing.
- b) A CPA certification (or equivalent) must be provided which evidences at least 30% of the project's reasonably expected basis in land and depreciable property has ALREADY been expended by the application deadline.
- c) Projects must demonstrate an ability to expend 100% of the TCX funds by no later than December 31, 2011.
- d) If applicable, applicant must provide evidence that the project's Tax Credit Investor is aware of the project's request for additional gap financing.
- e) Projects must demonstrate the need for TCX subsidy with a minimum pledge of 75% of the developer fee.
- f) Projects must demonstrate financial feasibility.
- g) Projects that have already Placed-In-Service are ineligible.
- h) Projects must close on TCX funds no later than December 20, 2010.
- i) Projects must demonstrate that the requested TCX financing is not more than 85 percent of the building's eligible basis.
- j) Projects must be eligible for assistance under Section 1602 of ARRA, all corresponding federal requirements and must comply with any subsequent published guidance from the U.S. Treasury.
- k) Projects must be and remain qualified low-income buildings under Section 42 of the Internal Revenue Code and the applicable Qualified Allocation Plan for at least 15 years.
- l) Owners/General Partners/Developers cannot have any outstanding issues of non-compliance on any other NJ tax credit properties.
- m) Projects must meet the definition of "shovel ready" as stated in the HMFA Board approved Selection Criteria

### **Submission Requirements**

Applications shall not be considered complete and eligible for funding until evidence has been submitted that all of the preceding requirements have been met. At a minimum, applications shall include the following\*:

- a) Sponsor Certification, as defined at N.J.A.C. 5:80-33.2
- b) Brief explanation of need for additional financing and summary of any substantive changes to project since application
- c) Current breakdown of costs and basis, including a variance/comparison report against the most recent needs analysis performed by the Tax Credit Division (e.g. tax credit application, carryover). Include evidence, satisfactory to HMFA, for all cost increases on a line-by-line basis.
- d) CPA certification referenced in b) above
- e) Updated construction/draw schedule
- f) Copy of executed partnership agreement (if applicable) and closing documents/firm commitments for all other funding sources
- g) If applicable, letter from tax credit investor acknowledging project's application for TCX funds

\* The Tax Credit Committee reserves the right to have Agency staff request additional documentation as needed to determine a Project's eligibility for TCX funding.