

# First-Time Home Buyer Tax Credit Loan Program The “Prefund” Program II Term Sheet Applicable Nov. 23, 2009

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- 1. PROGRAM DESCRIPTION:** The First-Time Home Buyers Tax Credit Loan (“TCLP”) Program provides a loan to pay downpayment and/or closing costs to Agency Home Buyer Program first-time home buyers who meet all of the requirements of the Home Buyer Program and who are eligible for the credit as permitted by the federal law establishing the credit and the guidance provided by the IRS in the General Instructions that accompany IRS Form 5405 and who apply for a TCLP loan on or after November 23, 2009 and sign a contract to purchase a home on or before April 30, 2010 and close on the home on or before June 30, 2010. Non-first-time home buyers who qualify for the tax credit will be eligible for the TCLP if purchasing a residence in an Urban Target Area. Military personnel who are eligible for the home buyer tax credit extension permitted by federal law may apply for TCLP during the term of the extension which is currently through April 30, 2011. The TCLP loan will not exceed \$5,000 (\$4,000 in the case of married filing separately or \$3,250 in the case of a non-first-time buyer purchasing in an Urban Target Area) and will be secured by a second mortgage. The borrower will pledge to apply the refunds received from the first-time home buyer tax credit toward the repayment of the TCLP loan.
  
- 2. ELIGIBLE APPLICANTS:** TCLP loans are only available to Agency Home Buyer Program first mortgage borrowers who also qualify for the home



buyers tax credit. It should be noted that the income limits and certain eligibility restrictions for the first-time credit differ from the Home Buyer Program eligibility criteria (refer to IRS 5405 General Instructions attached for details). Borrowers must affirm, at the time that the TCLP loan is made, that they have a reasonable expectation that they will receive a First-Time Home Buyer Tax Credit refund at least equal to the amount necessary to repay the TCLP loan. The Agency will review and determine the amount of the loan and make a commitment for TCLP loan amount it determines to be reasonable.

- 3. INCOME ELIGIBILITY:** : For purposes of the TCLP loan Borrowers must not exceed the lower of the Home Buyer Program income limits or the tax credit income limits (which are different than the Home Buyer Program limits and which are set forth in the General Instructions that accompany IRS Form 5405). Please note that the Home Buyer Program county income limits are subject to change when HUD issues new 2010 area median incomes. HUD usually releases new median incomes in March. TCLP loans registered after the notice of new income limits will be subject to the new limits.
- 4. ELIGIBLE PROPERTIES:** Home Buyer Program Eligible Property definitions are applicable (refer to Home Buyer Program Fact Sheet or Term Sheet for details). Note that the Home Buyer Program cannot be used for certain types of residences for which the credit can be claimed, such as houseboats, housetrailers and mobile homes.
- 5. GENERAL ELIGIBILITY REQUIREMENTS:** Individuals only. Corporations are not permitted to act as borrowers. Borrowers purchasing properties located in the Statewide Areas must be first-time home buyers. Urban Target Area purchasers must meet all of the eligibility criteria for the tax credit refund in order to be eligible for the TCLP. At the time of loan closing, no other residential properties may be owned.
- 6. OCCUPANCY:** Property must be occupied as the borrowers' primary residence within 60 days of closing. Borrower must maintain occupancy for the



life of the loan. (The IRS requires a rebate of the tax credit if residency is not maintained for 36 months.)

**7. MAXIMUM LOAN AMOUNT:** The TCLP loan shall be in the amount of the lesser of 10% of the purchase price of the home or \$5,000,- or such lesser amount as determined by the Agency or as may be requested by the borrower. The borrower will not be permitted to receive cash back at closing. Married taxpayers filing separately receive up to a \$4,000 tax credit (\$3,250 if a non-first-time buyer purchasing in a UTA) and therefore will be eligible to receive the lesser of 10% of the purchase price or an amount not to exceed \$4,000 (or if applicable, \$3,250). However, the Borrower may only request a loan in an amount up to the amount that they can reasonably be expect to receive in tax credit cash from the IRS.

**8. TERMS, INTEREST RATE AND REPAYMENT:** The Borrower will execute a Note to pay the principal amount of the TCLP loan with interest at the rate of zero percent (0%) per annum until June 30, 2011. Borrower will pledge to repay the principal amount with the proceeds of the federal First Time Home Buyers Tax Credit refund. If the tax credit refund proceeds are insufficient to repay the loan and the Borrower has not been repaid the loan in full on or before June 30, 2011, the loan interest rate on the unpaid principal balance, commencing July 1, 2011, will be the same interest rate as the first mortgage note interest rate and the loan will become co-terminus with the first mortgage. Repayment is due immediately upon sale and conveyance of the property pursuant to an “arm’s length” transaction, foreclosure or deed in lieu of foreclosure, or refinance. In the event of an “arm’s length” sale and conveyance, repayment shall be from “net sales proceeds” (funds left after payoff of superior mortgage liens, real estate commission and other reasonable and customary transaction fees and costs). Eligible military personnel purchasing within the overseas military extension period will have until June 30, 2012 to repay unless they file an amended tax return and receive their tax credit refund prior to that date.

Exceptions to the due date can be made if the borrower’s tax refund is not received or realized (i.e., borrower has been given a credit but no or limited refund because the tax obligation has exceeded the tax credit refund amount) by that date. Requests for an exception must be presented by the borrower to the Agency in writing by June 30,



2011 and will only be granted if the borrower is filing late as permitted by the IRS, or if the borrower did not receive or realize a tax credit refund in the amount of the principal balance of the Promissory Note. Requests for extensions must include a copy of the borrower's IRS Form 4868 (Application for Automatic Extension of Time to File U. S. Individual Income Tax Return) and are subject to approval by the Agency. If the borrower receives a tax credit refund that is less than the full amount of the TCLP loan repayment obligation, that partial amount shall be repaid and the TCLP note will be partially reduced accordingly.

In the event that Borrower files an amended 2008 tax return the note rate will be 0%, however, if not repaid by December 31, 2009 the interest rate will thereafter be the same as the first mortgage note rate.

The TCLP loan shall require no monthly payments. The full principal amount together with any accrued interest shall be due and payable upon the sale or upon the transfer or upon the refinance of the property or if the applicant ceases to occupy the property as his/her primary residence, whichever occurs first.

**9. SUBORDINATIONS NOT PERMITTED:** TCLP loans will not be subordinated to other financings, other than the Agency Homebuyer first mortgage. However, the TCLP loan will not preclude the borrower from receiving other downpayment assistance, including a loan from the Agency's Smart Start program.

**10. LOAN IS ENFORCEABLE REGARDLESS OF IRS ELIGIBILITY DETERMINATION; TAX LAW DISCLAIMER:** The Agency cannot provide tax advice and makes no representations as to the eligibility of any borrower for the first-time homebuyer tax credit. The TCLP loan is not conditioned on the eligibility of the borrower to receive the tax credit or on the availability of a refund from the IRS and shall remain in full force and effect in the event that the borrower is or becomes ineligible to receive the tax credit or if the amount of the tax credit refund is inadequate to repay the TCLP loan.



**11. FUNDING AND PURCHASE:** The Lender must reserve TCLP loan funds on the Agency's Internet Loan Registration System. The Lender will fund the TCLP loan at closing with its own fund or line of credit. The Agency will purchase the loan at par along with the purchase of the first mortgage. The Agency will purchase the TCLP loans from Lenders even in the event that a committed Home Buyer Program first mortgage is declined for purchase by the Agency due to non-compliance with Home Buyer Program standards.

