

Prepared for May 28, 2009 Board meeting

RESOLUTION REGARDING TAX CREDIT ASSISTANCE PROGRAM
SELECTION PROCESS AND CRITERIA AND APPLICATION

WHEREAS, the Connecticut Housing Finance Authority (the "Authority") is the designated tax credit agency for the State of Connecticut; and

WHEREAS, Title XII of the American Recovery and Reinvestment Act of 2009 ("ARRA") authorizes the U.S. Department of Housing and Urban Development ("HUD") to implement a tax credit assistance program ("TCAP") to provide grant funds to state tax credit agencies for capital investments in eligible Low Income Housing Tax Credit projects; and

WHEREAS, HUD requires each state tax credit agency to make its project selection process and criteria available to the public and to accept comments from the public for a period of not less than five days and to submit its application for funds on or before June 3, 2009; and

WHEREAS, by resolution adopted May 17, 2009, (the "Resolution") the Authority authorized its project selection process and criteria for public comment; and

WHEREAS, pursuant to the Resolution the Authority's project selection process and criteria were made available for public comment for a period of five days and comments were received as described in the attached memorandum from Michael J. Ward to the Board of Directors; and

WHEREAS, the Authority desires to approve the project selection process and criteria as presented in accordance with the attached memorandum and to authorize the submission of the application for funds by the Authority.

NOW THEREFORE, be it resolved by the Board of Directors of the Connecticut Housing Finance Authority as follows:

The TCAP project selection process and criteria are hereby approved and the President-Executive Director is hereby authorized and directed to prepare, execute and submit the application for funds as required by HUD, together with all necessary and appropriate materials in support thereof and to take any and all other actions necessary and desirable to effectuate the intent of this resolution.

To: **Board of Directors**

May 28, 2009



From: Michael J. Ward, Administrator Budgeting, Planning,
Research & Information and Administrative Services

Agenda Item: **Public Comment Period For - Description of the Competitive Selection Criteria and Process To Be Used By CHFA To Competitively Award Tax Credit Assistance Program (TCAP) Funds** **Resolution**

On Thursday May 14th the Board authorized a public comment period on a proposed "Description of the Competitive Selection Criteria and Process To Be Used By CHFA To Competitively Award TCAP Funds" (the "Description").

Consistent with the American Recovery and Reinvestment Act (ARRA) the Description was posted on CHFA's Website starting on the afternoon of Friday May 15th, with extensive notification by e-mail to interested parties as well as publication of a formal legal notice in several newspapers of general circulation on the weekend of May 16-17th.

By the close of the public comment period at 5:00 PM on Friday May 22nd CHFA had received four comments. All four comments are attached to this memo.

No comments suggested substantive changes to the approach outlined in the Description. Comments focused on the criteria for "readiness to proceed" to development used in the Description in the areas of site control, Federal cross-cutting program requirements, local planning & zoning approval and 4% tax credit transactions. These comments are summarized and addressed below.

In light of these comments the planned "readiness to proceed survey" will include some additional detail regarding the status of local planning and zoning approvals. No other changes in the selection criteria are proposed.

Site Control

Background: The Description provides 10 points to those applicants that can evidence site control by virtue of a current deed or ground lease. This is to provide priority to those developments that can proceed without the uncertainty of interim agreement and option renewals and possible need to renegotiate with the risk of loss of control.

Public Comments: Two parties suggested adding an "agreement" or "option" to purchase as also deserving an award of 10 points for site control.

Analysis: All applicants for Low Income Housing Tax Credits, either 9% or tax-exempt bond mortgage finance with 4% credit must evidence site control through an "agreement"

Reviewed by: John K. Craford, EVP Finance & Administration
Al Dickerson, General Counsel

or “option” in order to be considered for an award of credits or mortgage financing. Adding points for developments that meet this baseline requirement negates the advantage intended by the level of site control provided in the Description. Therefore no change in the proposed selection criteria is recommended.

Federal Cross Cutting Requirements

Background: The Description provides awards of up to 60 of the 160 total points available for demonstrated or anticipated compliance with three important Federal program requirements that could lead to delays in the development process. The Description also indicates that CHFA will use a “Readiness to Proceed Survey” that will poll for compliance with these Federal requirements.

Comment: One party suggested that CHFA establish compliance with these requirements as a “threshold item for an application to TCAP”.

Analysis: TCAP funding mandates compliance with these Federal cross-cutting requirements. The approach proposed in the Description gauges where each applicant is in the process of meeting these requirements in order to increase the likelihood that they will be met. Therefore no change in the proposed selection criteria is recommended.

Local Planning & Zoning Requirements

Background: The Description provides awards of points for various levels of local planning and zoning approval as follows:

Approved Use	10 points
Required Variances Approved	10 points
Site Plan Approved	20 additional

Public Comments: One party suggested that existing projects that do not require planning and/or zoning approvals should receive the maximum points available under this category.

A second party suggested additional information to be gathered to verify that the local approval documented by the applicant does in fact reflect “readiness to proceed”.

Analysis: The “Approved Use” designation in the Description grants points to applicants whose developments meet all of the conditions of their local planning and zoning approval and do not require additional consideration, other than any site plan approval that would be customary if required. Under the scoring proposed in the Description developments that are “Approved Uses” and have “Site Plan Approval” would satisfy these criteria and receive the maximum points, as would developments where no such additional approvals are necessary. Therefore no change in the proposed selection criteria is necessary.

The “Readiness to Proceed Survey” now being developed will incorporate additional detail in order to specify the actual status of each local planning and zoning approval relative to their “readiness to proceed”.

4% Tax Credit Transactions – “Completed Tax Credit Approval”

Background: the Description treats “9 Percent” and “4 Percent” transactions in the same manner with respect to defining a “Completed Tax Credit Approval”. An award of tax credits is defined as prior CHFA Board authorization of a credit reservation or a tax-exempt mortgage commitment.

Comments: One party suggested that a “commitment letter” rather than an “allocation” of credits be considered as evidence satisfying this measure of readiness to proceed in 4% credit transactions financed with tax-exempt bonds.

Analysis: ARRA requires that CHFA use the same definition of “award of credits” for TCAP all applications. The Description defines an “Award of Credits” as CHFA Board authorization of a credit reservation or a tax-exempt mortgage commitment. This definition is consistent with the status of many developments now in need of TCAP funding in that they have an approved reservation that cannot be used as planned.

The Description does not require a prior “allocation” of credits to satisfy this evaluation criterion. An allocation of credits is realized when an IRS Form 8609 or a Carryover Agreement is executed for a given development. This benchmark is realized too late in the process to be useful in the TCAP program where applicants are having difficulty syndicating credits. Therefore no change in the proposed selection criteria is recommended.

4% Tax Credit Transactions – Allow “Opt Out of the Obligation to Syndicate”

Background: ARRA required that TCAP funds be used in low income housing tax credit developments. HUD has subsequently determined that a development utilizing TCAP funds must have at least a “nominal” amount of tax credit equity invested as development capital. HUD has made no distinction between 9% and 4% transactions in this regard. Additionally, CHFA is now piloting an approach to leveraging TCAP funds that is based on the syndication of 4% tax credits.

Public Comments: One party suggested that developments financed with tax-exempt bonds and 4% tax credits be allowed to “opt out of their obligation to syndicate” their tax credits.

Analysis: This suggestion is not consistent with current HUD approach to the use of TCAP funds. Therefore no change is recommended.

Public Comments Received Regarding

Description of the Competitive Selection Criteria and Process
To Be Used By CHFA To Competitively Award Tax Credit
Assistance Program (TCAP) Funds

Ward, Michael

From: Simon Gerson [sgerson@pokomgt.com]
Sent: Monday, May 18, 2009 12:31 PM
To: TCAP
Subject: TCAP Comments

Dear Sir or Madam,

We appreciate the opportunity to provide comments on CHFA's proposed competitive selection criteria and process for the allocation of TCAP funds. The process appears both efficient and effective, and we support CHFA's goals for this program.

We have one concern with regard to the 'readiness to proceed survey', and the way in which it characterizes the "cross-cutting" program requirements of the TCAP funding. As written, applicants will receive points on the survey if they demonstrate or pursue compliance with the Federal Requirements. It is our opinion that this does not treat the Federal Requirements with enough importance, and that compliance, or the intent thereof, should be a threshold item for an application to TCAP.

Recipients of TCAP funding will be required to adhere to Fair Housing, Davis Bacon, and Environmental Review requirements. These are not requirements of the Low Income Housing Tax Credit program, and applicants may not be familiar with them. Applicants' responsibilities should be made as clear as possible at the outset. If the Federal Requirements were made a threshold for application, this responsibility would be much clearer.

Many thanks

Simon F. Gerson
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5/27/2009

Ward, Michael

From: Jill Benson [jbenson@chrhealth.org]
Sent: Friday, May 22, 2009 8:39 AM
To: TCAP
Subject: comments on the selection criteria for TCAPS

To Whom it May Concern:

Please accept the following as public comment on the selection criteria for TCAPS.

Under the readiness to proceed section, site control is defined as a deed or ground lease. Please consider adding the following two categories as evidence of site control:

1. Agreement to purchase
2. Option to purchase

Thank you for consideration of this

Jill

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Ward, Michael

From: Patricia L. Belden [pbelden@poah.org]
Sent: Friday, May 22, 2009 2:44 PM
To: TCAP
Subject: TCAP Comments

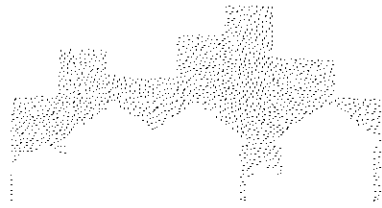
Greetings,

Comments from Preservation of Affordable Housing are attached.

Best,

Patricia Belden

*Development Manager
Preservation of Affordable Housing
40 Court Street, Suite 650
Boston, MA 02108
617-449-0859 (phone)*



Preservation of Affordable Housing, Inc.

Amy S. Anthony, President

May 22, 2009

Mr. Michael Ward
Connecticut Housing Finance Authority
TCAP Program
999 West Street
Rocky Hill CT

**RE: General Comments for American Recovery and Reinvestment Act (ARRA)
Implementation**

Dear Mr. Ward:

Thank you for the opportunity to comment on Connecticut Housing's plans for implementation of the American Recovery and Reinvestment Act. We commend you on your efforts to formulate policies to ensure these ARRA funds are used most effectively and efficiently -- particularly with regard to your emphasis on the Readiness-to-Proceed of proposals. In addition, we offer you our comments and recommendations for your consideration.

Preservation of Affordable Housing, Inc. (POAH) is a national non-profit housing development organization that owns 6,500 units of housing in nine states, including Torrington West Apartments in Connecticut. We enjoyed working with your agency on the transfer of the Torrington apartments and look forward to working with you on future preservation projects.

First Priority & Second Priority Groups – Allow an exception for non-profit sponsored projects with an allocation of 4% credits to opt out of their obligation to syndicate. Over the years, the 4% credits and their accompanying tax credits have been incredibly important for preservation transactions; in these times however, these also are the hardest for which to find an investor.

Readiness to Proceed Survey & Evaluation – Regarding the Survey and Evaluation process, we support the notion of a tool to gauge the “shovel-readiness” of the project, and respectfully suggest that the following criteria be changed to encompass a broader group of transactions:

1. Completed Tax Credit Approval: Allow a Financing Commitment Letter in the place of a tax credit allocation for 4% credit projects (see suggestion above regarding Priority Groups)
2. Site Control: Broaden the site control requirement to include a valid form of Purchase & Sale Agreement. This would allow a purchaser to use the resources from the new financing to purchase the property instead of relying on bridge financing. Particularly in today's market, acquisition bridge funds are more difficult – and costly – than ever to obtain for non-profit developers and Community Development Corporations.
3. Planning and Zoning Approval: We suggest a clarification - existing projects that do not require planning and/or zoning approvals should receive the maximum points available in this category. This would put important preservation projects on equal footing with new construction projects.

If you would like to discuss these suggestions or any other matters in further detail, please feel free to contact me. We look forward to hearing from you and your agency more on these matters and working with you in the months to come.

Sincerely,



Patricia Belden

Development Manager

Ward, Michael

From: Peter Rogers [peter_rogers@ringsend.com]

Sent: Friday, May 22, 2009 3:37 PM

To: TCAP

Subject: Public Comments TCAP Process & Criteria

To whom it may concern:

With regard to your Readiness to Proceed Survey and Evaluation, under the third item criteria, Planning and Zoning Approval;

I would suggest you dig a little further into an applicant's positive response. Specifically, while a P & Z Approval may be in place, it may have been conditioned in such a way as to have substantial effect on the viability of said approval and the timely issuance of required permits; e.g.,

- Required modifications to the plan (have they been submitted for approval?),
- Requirement of other town bodies to approve specific elements (abandoning a public road, for instance will require BOS & RTM approval and could easily be a six-month process in and of itself)
- Required 'Phasing' plan (has it been submitted and approved?)
- Required analysis and upgrades to surrounding infrastructure, etc. (has this been done?)

The other relative matter would be to ask for the applicant's assurance that the approval is not subject to any appeal or litigation, which could easily take 12 -18 months to resolve. In other words:

- Is your P & Z approval 'Ready to Proceed'?
- Have you met any and all conditions of the approval?
- Have you obtained all other necessary approvals from town departments, commissions, authorities, etc., having jurisdiction?
- Are there any legal challenges/court appeals to your approval?

It seems to me that having full disclosure of the answer to this critical question is the only way for you to accurately assess whether a project is on-course for completion by 2012. Thank you.

Respectfully submitted,

Peter L Rogers
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