

June 1, 2009

AHFC Planning and Program Development Department

**Submitted Questions & Comments Summary in Response to  
the Notice for Public Comment (issued on May 21, 2009)  
Regarding the Award Criteria for the Tax Credit Assistance  
Program and Implementation of the Section 1602 Grants in  
Lieu of Low Income Housing Tax Credits.**

**Submitted Questions**

Question 1: What is the context of the “intermediate remedies” mentioned in Section IV(1) of the Notice?

*Answer 1: The intermediate remedies in the May 21, 2009 Notice refer to provisions normally incorporated into partnership agreements between investors and project sponsors for LIHTC projects. These intermediate remedies may become necessary to mitigate AHFCs exposure from the award of TCAP and / or Section 1602 Grants in Lieu of LIHTCs.*

Question 2: How will AHFC determine the appropriate combination of LIHTCs, TCAP funds, and Section 1602 Grants in Lieu of Low-income Housing Tax Credits (LIHTCs)?

*Answer 2: AHFC will determine the appropriate combination of LIHTCs, TCAP and Section 1602 Grants in Lieu of LIHTC funds for the projects based on the availability of requested resources, the preferences identified in the May 21, 2009 notice, and the requirements of the requested funding sources.*

Question 3: Are traditional LIHTCs required to stay in the project? If so, how will the proceeds from any subsequent sale of the LIHTCs be factored in to the subsidy layer review conducted at the project close-out?

*Answer 3: If a project receives any TCAP funds, the project will at minimum need to keep an amount of LIHTCs that generate enough in proceeds (at the anticipated sales price) to cover the costs associated with the LIHTC transaction plus \$200. This floor is necessary to ensure that the LIHTCs are not functioning as an unsupported cost to the project. If the LIHTCs remaining in a project generate proceeds that exceed the amount necessary to result in a feasible project, other sources of subsidy will need to be recaptured / reduced or the LIHTC award will need to be reduced prior to the issuance of the 8609(s). Please note: If all LIHTCs are eliminated from a project at any time, any awarded TCAP funds to that project will need to be immediately recaptured.*

Question 4: How much of the LIHTCs would a project need to keep?

*Answer 4: Please see the above answer to question #3.*

Question 5: If a project is underwritten at a price below \$.85 per LIHTC, how would the exchange price of \$.85 per LIHTC affect the LIHTC award to the project? Would the surplus credits remain in the deal, or be awarded to other projects?

*Answer 5: If a project requests Section 1602 Grants in Lieu of LIHTCs, AHFC will only exchange the amount of LIHTCs necessary to support the eligible costs identified in the Notice under Section II(1-3). If the previously awarded LIHTCs exceed the necessary amount of LIHTCs that need to be exchanged to support the eligible expenses identified in the Notice under Section II(1-3), the surplus LIHTC authority will be retained by AHFC and may be reallocated in accordance within the terms of AHFC's Qualified Allocation Plan.*

### **Submitted Comments**

Comment 1: One comment was received recommending that the preference for TCAP funds requested as loans be removed. The entity providing comment posited that debt capacity was already accounted for by AHFC during the award review. Furthermore, the comment noted that the initial award of LIHTCs is predicated on the assumption that all available debt to the project(s) will be contributed.

*Staff Response: The award review evaluates the hard debt capacity of project proposals. Decisions regarding the utilization of soft equity resources are left to the project sponsors. During the award review, AHFC does not confirm that all available soft equity resources have been exhausted or evaluate the debt capacity from all available soft equity resources. While some projects may have exhausted all available soft equity, staff does not agree with a generalized postulate that all projects have exhausted all available soft equity. Given that the TCAP funds represent a new soft equity resource, the opinion of staff is that soft equity resource may now exist that investors find acceptable to allow in the project funding mix as a debt instrument. In cases where the TCAP funds can be provided as debt instruments, the potential exists for AHFC to simultaneously assist at-risk projects and provide an opportunity for the TCAP funds to potentially return in the future as an additional funding resource for affordable housing projects in Alaska.*

Comment 2: One comment was received recommending that if fees were added to the existing operating expenses, that AHFC's Planning Department should coordinate with AHFC's mortgage Department to work out commensurate "off-sets" to the reduced debt capacity resulting from the increased fees.

*Staff Response: If additional fees are added to a project proposal's operating expenses, the debt capacity for the project would change. If the change in debt capacity reduced the anticipated debt supported by project operations, then a concomitant gap would*

*manifest between the projects sources and uses. Since such a gap would result from a compliance condition of TCAP and / or Section 1602 Grants in Lieu of LIHTCs, the increased gap would be an eligible expense that could be used to support a request for TCAP and / or Section 1602 Grants in Lieu of LIHTCs. Please note: the payment of these fees would be made from cash flow derived from project operations, not the TCAP and / or Section 1602 Grants in Lieu of LIHTCs. Under this provision, the TCAP funds and / or Section 1602 Grants in Lieu of LIHTCs would be awarded based on a capital development gap.*

Comment 3: One comment was received recommending that AHFC not require a Note in addition to a Deed of Trust to secure the TCAP and / or Section 1602 Grants in Lieu of LIHTC award(s). The comment noted that a Deed of Trust, by itself, would enable AHFC to recover the project through foreclosure if necessary to enforce the use provisions of the respective funding sources.

*Staff Response: As the allocating agency for the TCAP and / or Section 1602 Grants in Lieu of LIHTCs, AHFC may need to recapture and return funds awarded under either or both programs. The Note provides AHFC with recourse beyond foreclosure against the property that can ensure the actual funds awarded can be recovered and returned to the appropriate federal entity, as may become necessary based on the project performance.*

Comment 4: One comment was received in support of the preference for TCAP requests that are made by project sponsors who have already obtained a commitment from an equity investor.