



**BILL LOCKYER**  
TREASURER  
STATE OF CALIFORNIA

May 11, 2009

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Ladies and Gentlemen:

I am writing to express concerns about the Federal Department of the Treasury's (Treasury's) recent published "Application and Terms and Conditions" guidance for the implementing of Section 1602 of the American Recovery and Reinvestment Act of 2009 (ARRA). Two aspects of the guidance will negatively impact the effectiveness of the low income housing "exchange" program in California.

First, Treasury is requiring that 1602 funds be granted to project owners rather than loaned. This interpretation of federal statute does not afford states the flexibility that Congress intended, and raises several problems:

- a. A grant of federal funds by the State allocating agency would be taxable income to the recipient for California income tax purposes, where the tax rates are among the country's highest. The federal award's value would be significantly and unnecessarily reduced, whereas a loan would be devalued by State tax exposure.

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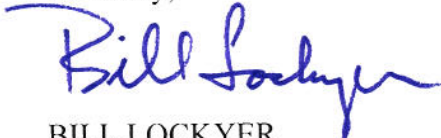
- b. A loan makes State and federal requirements much easier to enforce. Given the State's liability to the federal government to repay funds where there is noncompliance, California should have the most effective mechanism available to ensure compliance.

Second, the timing for the expenditures of the 1602 funds as expressed in the Grantee Terms and Conditions is more restrictive than is contained in the legislative language and will jeopardize the feasibility of many projects. Section 1602(d) states, in part, that funds "not used to make subawards under this section before January 1, 2011 shall be returned." However, "Application Terms and Conditions" paragraph 4(c) states that the grantee may not disburse grant funds after December 31, 2010. Making a subaward is not the same as disbursing the funds. During the time between the award and ultimate receipt of funds, owners will need to complete the predevelopment process and close all of the financing required to build the project. This typically takes several months. 2009 Credit Ceiling projects receiving a subaward in 2009 are not required to place the project in service until December 31, 2011. Cutting off disbursements on December 31, 2010 effectively makes the placed-in-service date several months prior to December 31, 2010 since states typically would withhold some funds until cost certification to ensure that the project is not over-funded. Construction lenders would be unwilling to disburse their loan funds if there is any risk that the public funds may not be available due to the short deadline now being imposed.

In sum, these two provisions materially restrict our ability to implement the law and will greatly reduce the effectiveness of the exchange program.

We strongly urge you to reconsider your position and provide for the flexibility we feel Congress intended to provide to make this program work effectively.

Sincerely,



BILL LOCKYER  
California State Treasurer

cc: Senator Barbara Boxer  
Senator Dianne Feinstein  
Congresswoman Maxine Waters