

TCAP / 1602 PROGRAM COMMENTS AND DSHA RESPONSES

- 1. Comment:** Add “Reservation Letter and/or Carryover Agreement” to the Exchange Eligibility Requirement #3.
Response: *DSHA will add this language.*
- 2. Comment:** Change the priority in the TCAP Selection Criteria - Put eligible properties that have received an award of tax credits and are under construction and at risk of not being completed due to investor/equity fallout as third priority and eligible properties that have received an award of tax credits and are “shovel-ready” but have no investors as fourth priority.
Response: *If DSHA reversed these priorities as proposed, projects already underway would have to stop construction and complete the necessary federal requirements, including environmental review and make adjustments for Davis-Bacon wage rates in the construction contract. A project that is “shovel ready” would have already completed the above and could quickly proceed to closing using TCAP.*
- 3. Comment:** The Regulations and Process documents indicate that the Asset Management Fee may not be paid from either the Exchange funds or the TCAP funds. Normally these fees are paid from gross equity paid by the investor. In projects where there is no equity, because there is not a tax credit investor at all, where will the sponsor get funds to pay this Fee?
Response: *In the case of 2008 or 2009 properties with no equity, the asset management fee will be paid from non-federal loan(s) proceeds.*
- 4. Comment:** Section B. Application Process mentions projects having building permits as part of the “shovel ready” requirement; however, permits typically are not received until closing.
Response: *DSHA will accept letters from the local jurisdiction stating the project has been approved for a building permit.*
- 5. Comment:** Do 4% credit projects qualify for Exchange funds? (Two comments received).
Response: *4% credits cannot be exchanged. The Department of Treasury will only Exchange credits for properties that have received a 9% allocation. However, Exchange funds may be used to support a 4% credit project, if funds are available and DSHA determines the project meets the established criteria.*

6. **Comment:** For Exchange funds, what happens after the 30-year term?
Response: *The 30-year affordability period expires and the recorded Exchange Agreement would be released. This release may be subject to other IRS regulations which are unknown at this time.*
7. **Comment:** The U.S. is deeply divided between supporting the unemployed and giving “handouts” to non-working people. The best scenario is to spend money to create jobs and train people. Delaware needs jobs not a larger bureaucracy.
Response: *The purpose of ARRA is to preserve and create jobs and promote economic recovery.*
8. **Comment:** When will DSHA provide notification to TCAP or Exchange Fund applicants?
Response: *DSHA will accept applications beginning June 3. Commitments for TCAP or Exchange funds will be subject to DSHA approval from HUD and/or Treasury.*
9. **Comment:** There needs to be flexibility for projects already started for life/safety concerns and consequently need to continue.
Response: *ARRA funds are designed for projects that qualify as Tax Credit projects, are “shovel ready” and are experiencing equity shortfalls.*
10. **Comment:** Explain the Asset Management fee calculation – provide an example.
Response: *For a TCAP property that has 50 units the Asset Management fee will be $\$500 \times 50 = \$25,000 + \$1,250,000 \text{ TCAP loan} \times 1\% = \$12,500 + \$300,000 \text{ Allocation Amount} \times 1\% \times 10 \text{ years} = \$30,000$. Total Asset Management Fee = \$67,500.*
11. **Comment:** Investors don’t agree to an allocation, they invest in a partnership in exchange for credits. First priority should be given to projects under construction and then to “shovel ready”.
Response: *Regarding the investor comment, partnership agreements state the agreed upon credit expected by the investor. Regarding priorities, please see No. 2 Response.*
12. **Comment:** Section III A.1 appears redundant.
Response: *This section is referenced in the TCAP Notice, however this section will be reviewed for clarity.*
13. **Comment:** Section D.8 – what is the process for a wage determination?
Response: *DSHA requests wage determinations from HUD which are then incorporated into contracts subject to federal wage requirements. More information can be reviewed at <http://cfr.vlex.com/vid/1-6-use-effectiveness-wage-determinations-19681026>*

14. Comment: DSHA should maximize exchanging 2008 and 2009 credits at the 85 cents rate versus the current market rate.

Response: Section 1602 requires "Subawardees must demonstrate a good faith effort to obtain investment commitments utilizing credits before the State agency may make an award." DSHA will review projects for financial feasibility and Exchange credits per its stated priorities.

15. Comment: Change the priority in the Exchange Selection Criteria – put eligible properties that are "shovel ready" but have no investors ahead of "shovel ready" projects that have an investors.

Response: Please see No. 14 Response.