

U. S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

February 4, 2010

Ms. Tammye Trevino
Administrator
Rural Housing Service
1400 Independence Avenue SW
Room 5014 South Building
Washington, DC 20250

Dear Ms. Trevino:

I am writing to request that the Rural Housing Service issue guidance clarifying that low income housing tax credit exchange funds qualify as equity for the purpose of Rural Housing Service (RHS) development and revitalization projects.

RHS recently published an "Unnumbered Letter" that classifies Tax Credit Exchange Program funds as grant funds. As a result, such funds are not treated as equity. The consequence of such a treatment is that project sponsors must make an equity investment of as much as 5% of an RHS loan for projects using both RHS loans and tax credit exchange funds. In addition, such funds do not qualify to earn a return on investment. These factors will make it financially more difficult to undertake projects combining RHS loans with tax credit exchange funds.

This treatment is contrary to the intent of Congress in establishing the low income housing tax credit exchange program. This program was established to provide an option for cash in lieu of low income housing tax credits, in response to the significant deterioration over the last few years in both the availability and competitive pricing of tax credit investments.

Congress was clear that to the maximum extent possible tax credit exchange funds were to be treated in the same manner as housing tax credits. In fact, the language from the Recovery Act that established this program states the state agency subawards be made:

"in the same manner and shall be subject to the same limitations (including rent, income and use restrictions on such buildings) as an allocation of housing credit dollar amount allocated by such State housing credit agency under section 42 of the Internal Revenue Code of 1942. . ."

Historically, RHS has treated low income housing tax credit exchange proceeds invested in RD Multifamily Rental Housing as part of the owner's equity. RHS should provide for the identical treatment for tax credit exchange funds. Therefore, I request that RHS rescind the above-referenced Unnumbered Letter and make clear through regulation or other clear guidance that tax credit exchange funds may be used as equity for RHS projects.



BARNEY FRANK
Chairman