

## **INFORMAL HUD GUIDANCE**

- HUD has approved 11 state applications for TCAP funds to date. Letters will not be sent out until later this week.
- DCA cannot begin selection or final environmental review until we receive a HUD award letter.
- DCA cannot make final commitments until HUD has sent a signed grant agreement.
- HUD sends the grant agreement to DCA signed and will not negotiate any terms with the state agency.
- Most applications should be approved in two weeks.
- Funds will not be available until the middle of July. A project is only eligible for TCAP if it has an award of credits which is sold either through syndication, a third party, a private individual, or used by the developer. (This directly contradicts previous HUD written guidance.)
- State agencies must award LIHTC's necessary for the project as originally intended, not a de minimus amount. (This directly contradicts previous written guidance that only a "nominal" amount of credits needs to be in the deal.)
- Applicant must make good faith efforts to sell LIHTC's.
- HUD wants a maximum amount of credits in a deal in order to maximize use of TCAP. (This is new. Good faith effort to sell credits was previously part of the Treasury issued guidance, but not the HUD guidance.)
- Every tax credit project will not be saved.
- Completion means construction must be complete by federal deadline.
- TCAP can only be used for eligible basis. HUD is working on guidance on how to track eligible basis.
- Can pay for TCAP related asset management fees with TCAP funds. (This appears to be contrary to previous written guidance.)
- TCAP funds cannot be used to pay for LIHTC related fees.
- HUD is assessing whether "Buy American" applies to a number of ARRA sources and will issue guidance. HUD previously provided written guidance that this provision was not applicable to TCAP.
- Davis-Bacon requirements will not apply retroactively but rather effective upon ARRA funds being approved for project. If project completed prior to notice date, D-B does not apply. If D-B kicks in during construction, use prevailing wages that would have applied at beginning of construction.
- DCA cannot commit funds before completion of the environmental process.