



Iowa Finance Authority

Section 1602 Project Selection Process and Criteria

June 10, 2009

I. Introduction

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). The purpose of the Recovery Act is to jumpstart the nation's ailing economy with the primary focus of creating and saving jobs in the near term and investing in infrastructure that will provide long-term economic benefits. The American and Recovery Reinvestment Act (ARRA) of 2009 included two provisions for Low-Income Housing Tax Credits (LIHTC):

- Title XII of the Recovery Act appropriated \$2.25 billion for the Tax Credit Assistance Program (TCAP); and
- The ability for allocating agencies to exchange certain allocations for cash from the Treasury (Section 1602).

Due to the primary focus of jumpstarting construction as a means of job creation, the Recovery Act establishes deadlines for commitment and expenditure of the Section 1602 funds. By statute, projects eligible to receive 1602 assistance are qualified low-income buildings in accordance with Section 42 of the IRC.

The Iowa Finance Authority (IFA) will administer distribution of the state's \$72,772,712 in Section 1602 funds in accordance with this Project Selection Process and Criteria Document and pursuant to the Qualified Allocation Plan (QAP) in effect at the time of award of tax credits. IFA is required to expend all Section 1602 grant funds by December 31, 2010. IFA may collect reasonable fees from the Ownership Entity to cover expenses associated with performance of its duties under 1602(c)(3) of the Act for compliance and asset management.

All Recovery Act information will be made available on IFA's Recovery Act website at: http://www.iowafinanceauthority.gov/en/american_recovery_and_reinvestment_act/. The Section 1602 grant program is subject to revision based on changed circumstances, such as continued guidance from federal agencies. IFA will announce and clearly indicate any changes. The U.S. Treasury may allow housing finance agencies to use the Section 1602 funds in the form of a non-interest bearing, deferred loan. If Treasury allows the Section 1602 funds to be loaned, IFA may provide all or part of the Section 1602 assistance in the form of a loan. For this purpose, IFA may substitute "Section

1602 loan agreement,” for the “Section 1602 grant agreement,” or “written grant agreement,” as referenced in this document.

Terms used in the Section 1602 criteria will have the same meaning as under IRS Code Section 42, federal regulations, the 2009 Second Amended Qualified Allocation Plan, Section 1602 Grantee Terms and Conditions, and legal agreements between IFA and the Ownership Entity.

II. Evaluation and Selection

A. Threshold Requirements

To the extent possible, IFA will award Section 1602 grants to projects that have received or will receive an award of per capita nine percent (9%) credits under Section 42 from October 1, 2006 to September 30, 2009, and require additional funding to be completed and placed in service. For purposes of the Section 1602 Criteria, “award” means a determination to allocate credits by the IFA Board of Directors, and payment of the non-refundable reservation fee. The last day that applications for nine percent (9%) credits may be submitted for Section 1602 consideration under the 2009 Second Amended QAP is July 15, 2009.

In addition to any requirements of the Section 1602 program, the project must comply with the underwriting criteria of the Qualified Allocation Plan in effect at the time of award of tax credits, as established by the Carryover Agreement. If a project is eligible for Federal historic tax credits and submitted the original application with Federal historic tax credits as a source of funds, IFA will not use Section 1602 grant in lieu of the historic credits.

Heartland Disaster Relief Tax Credits are not eligible to be exchanged under Section 1602. IFA is unlikely to allow the exchange of disaster credits awarded to a project for “per capita” credits because IFA has already exchanged available “per capita” credits for the Section 1602 grant funds. The remaining “per capita” funds have been committed through the 2009 Second Amended QAP for the Reserved Set-Aside, the Rural Development Preservation Demonstration, and to make a nominal award of “per capita” credits to projects seeking TCAP funds. IFA intends, to the greatest extent possible, to provide Section 1602 grant funds to projects that have or are likely to obtain a syndicator or direct investor for the disaster credits awarded to projects.

If a project fails to meet the ten percent (10%) test deadline established by IFA policy and procedures and the executed Carryover Allocation, the project will not be eligible for tax credits. Any previous TCAP or Section 1602 agreements will be rescinded and repayment of funds will be required, and the project will not be eligible in the future to obtain a TCAP loan or a Section 1602 grant. IFA will extend the 10% test deadline from September 30 to November 16, 2009. An addendum to the 2008 Carryover Agreement will be sent to all affected projects.

Section 1602 funds must only be used for capital investments in eligible LIHTC projects. Capital investments means costs that are included in the eligible basis of a project under Section 42 of the IRC. To the extent that Section 1602 funds are used to pay for capital investment, these funds can be used to meet the ten percent (10%) test. Other sources must be used for costs that are not eligible for LIHTCs, such as land.

1. In order to be eligible for IFA's Section 1602 selection process, the Ownership Entity must be able to expend one hundred percent (100%) of the Section 1602 grant award before December 31, 2010, and place the project in service by December 31, 2011. The Ownership Entity is responsible for securing sources to cover any part of the project costs not expended by December 31, 2010, and a commitment from the additional sources must be provided prior to the signing of the Section 1602 grant agreement.
2. The Ownership Entity agrees to comply with the terms of the carryover agreement, and the owner has made no material changes after the approval of the initial application for credits without IFA's prior approval.
3. Section 1602 funds may not be used for the cost of swimming pools.
4. In order to be eligible for any Section 1602 grant, the Ownership Entity must waive their right to a qualified contract defined under 26 CFR 1.42-18. An exception may be made for a project that is a qualified Renter to Ownership Saving Equity (ROSE) program.
5. When IFA has more grant funds in the project than an investor or syndicator has LIHTC equity investment, then IFA will require a deferral of thirty-three percent (33%) of the developer fee to be placed in a restricted account for repayment of the grant in the event of a compliance action by IFA. If the Ownership Entity has remained in compliance with the Section 1602 grant agreement, twenty percent (20%) of the amount held in the restricted account will be released in years 6, 7, 8, 9, and 10 following the placed in service date. IFA shall have the right to use any of the deferred fees to offset any losses, costs, or expenses as a result of the project's operations. IFA shall not unreasonably withhold any deferred fees.
6. If the general partner or managing member of the Ownership Entity is a non-profit and there is a developer/consultant for the project, then no less than fifty percent (50%) of the developer fee must be paid to the Ownership Entity. When IFA has more grant funds in the project than an investor or syndicator has LIHTC equity investment, the amount of funds placed in the restricted account must be divided in a ratio equal to the amount of developer fee received by each party, and payout from the restricted account referenced in the preceding section will be made using the same ratio.

7. IFA reserves the right to determine the reasonableness of the construction costs and may require a third party review, at the Ownership Entity's expense, of the proposed construction costs.
8. In the event that IFA has requests from two or more projects in a single city and the projects have met all of the threshold requirements, IFA reserves the right to communicate with the local jurisdiction in order to establish a priority order for allocation of Section 1602 grant funds.

B. Solicitation Process

Eligible projects are encouraged to immediately begin discussions with the syndicators/investors to identify an optimal financing structure, which may consist of one or more of the following elements: LIHTC, Section 1602 grant funds, TCAP loan, local contributions, construction and permanent mortgage, and funding sources proposed in the original application.

IFA reserves the right to allow both a Section 1602 grant and a TCAP loan in the same project if requirements for both programs can be met.

For the purposes of evaluating participants for the Section 1602 grant program:

- The first group of possible grant recipients to be evaluated for participation in the program will have fifty percent (50%) or more of the original anticipated LIHTC equity in the project committed by a syndicator or direct investor to the project.
- The second group of possible grant recipients to be evaluated for participation in the program will have syndication or investment committed to the project of less than fifty percent (50%) of the original anticipated LIHTC equity amount.
- The third and final group of possible grant recipients to be evaluated for participation in the program will have no syndicator or investor identified or committed to the project.

Projects that have a "per capita" allocation of tax credits may be considered for an exchange of credits at any time. If a project has completed construction but not yet received Form 8609, and the syndicator/investor has reduced the expected equity pay-in or refused to make further equity payments as a result of the lack of investment in the fund, the impact on the existing tenants and surrounding community will be considered as an extenuating circumstance.

An Ownership Entity is neither required to accept Section 1602 grant funds, nor entitled to receive them.

1. IFA will publish a Request for Information on the IFA website. Ownership Entities will have fifteen (15) business days to provide requested information.

To determine if the Ownership Entity has made a good faith effort to obtain investment commitment for LIHTC, the following must be submitted as part of the Request for Information:

A narrative describing the steps taken to secure an equity investment and describing issues specific to the project inhibiting investor interest in the project. IFA will look for evidence that the Ownership Entity has made an exhaustive effort to obtain an equity investor. The narrative must identify potential investors proffering unacceptable offers, and why specific terms and conditions were detrimental to the project's feasibility. IFA reserves the right to corroborate presented facts, and may request additional information from the applicant and/or potential investor or syndicator. IFA shall determine whether an applicant has met the federal good faith effort test. ANY MISPRESENTATIONS SHALL DRAW MAXIMUM PENALTIES UNDER PROGRAM REGULATIONS.

2. Following a review of the information provided in response to the Request for Information, IFA will contact those projects that meet the threshold and competitive criteria established in its Section 1602 Project Selection Process and Criteria with a request to meet with IFA. When a syndicator or investor is participating in the deal IFA will require them, either in person or telephonically, to participate in the meeting with the General Partner and IFA.

The scoring criteria will be used to establish an order for review of potential grant awards, but the score alone does not entitle a project to a grant award, nor disqualify a project from a grant award. IFA will consider the ability of the Ownership Entity to start and complete construction within the imposed timelines, and analyze the long term viability of the project.

3. Following a meeting with the General Partner representative of the Ownership Entity, and the syndicator or direct investor(s), IFA will evaluate if a Section 1602 grant could benefit the project, and if so, IFA will propose a preliminary grant amount.
4. Applicants who wish to proceed with the underwriting of this project in preparation for a grant award must pay a nonrefundable fee of \$750 for a change-in-application fee/grant processing fee.
5. Once the underwriting is complete, and a final grant amount is established, IFA will take a recommendation for Section 1602 grant award to the IFA board. Upon board approval, IFA will sign a Letter of Solicitation with the Ownership Entity.
6. The Ownership Entity and IFA must close the Section 1602 grant agreement no later than 120 days following the date that the Letter of Solicitation is sent to the Ownership Entity. The Section 1602 grant agreement will set forth all of the Section 1602 program requirements from Treasury and IFA applicable to the funding, including the requirements of Section 42 of the Code. The written grant

agreement shall impose conditions or restrictions, including a requirement providing for recapture of the grant funds by the Treasury, so as to assure that the qualified low-income building remains a low-income qualified building during the 15-year compliance period. The written agreement will include the extended low-income housing commitment under Section 42(h)(6)(B) of the Code.

7. Unless IFA is exchanging a “per capita” LIHTC for which a tax credit reservation fee has already been paid, the Ownership Entity shall pay a one percent (1%) origination fee at the time of that the Section 1602 grant agreement is signed.

Once a project is eligible for disbursement of funds, funds drawn from the U.S. Treasury account by IFA must be expended for eligible Section 1602 costs within three (3) days. IFA will post procedures for the construction draw process on the IFA ARRA webpage.

C. Selection Criteria

IFA will review the approved application for LIHTC and the information submitted in response to the Request for Information based on the following criteria. Projects must meet the Threshold Criteria in Section II.A. to be scored.

Readiness to Proceed

0 to 50 points	<p>Owners’ relative ability to expend 100 percent (100%) of the Section 1602 award before December 15, 2010 and provide funding commitments for sources that will be used to complete any further construction costs following this date. IFA will consider:</p> <ul style="list-style-type: none"> • The anticipated building timelines and proposed construction draw schedule, including a list of any challenges (e.g. extensive sitework); • If local government has issued a signed building permit; • If a construction contract has been fully executed; • If the building site is zoned properly; and • Owners’ and general contractors’ recent history of timely construction.
0 to 50 points	<p>Strength of the Relationship with Syndicator/Investor: This category evaluates where the project is in relationship to the syndicator/investor’s process for finalizing the purchase of tax credits. The syndicator or direct investor(s) must provide a signed verification to IFA of their current position related to the project. The general partner of the Ownership Entity and Syndicator/Investor must have completed the previous step and be in the process of completing the next step to earn points. For example, in order to score 10 points for Step 4, the Syndicator/Investor will have completed Step 3, and determined that the project has moved on to Step 4 in the approval</p>

	<p>process. A project will receive 50 points for Step 7 if the investor committee has given final approval to the project and the Syndication/Investment Agreement is being negotiated or has already been finalized. Points are not cumulative.</p> <ol style="list-style-type: none"> 1. Letter of Intent issued. (QAP threshold) 2. Syndicator begins investment process. 3. Syndicator/investor performs initial investment review including review of tax credit application, review of market, site inspection, review of development team and guarantors and compliance with current underwriting guidelines. 4. Syndicator/investor performs detailed review on all aspects of the investment and prepares investment summary for approval by its internal review committee. (10 points) 5. Final due diligence received and reviewed. Underwriting assumptions finalized. (20 points) 6. Final approval from investor(s)/committee. (30 points) 7. Closing of Syndication/Investment agreement. (50 points)
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Location

50 points	<p>The project is located in a county for which the Federal Emergency Management Administration has identified \$3 million or more in housing need as of August 11, 2008, and in which county fewer than 500 rental units in the aggregate have been allocated Federal Low-Income Housing Tax Credits during the past three (3) consecutive tax credit rounds beginning with the 2006 Qualified Allocation Plan. Applying the above criteria, the following counties are eligible for this element: Linn, Louisa, Black Hawk, Johnson, Muscatine, Butler, and Bremer.</p>
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Project Ownership

10 points	<p>Project has received or will receive an allocation of LIHTC under Section 2.2.1 of the 2009 Second Amended Qualified Allocation Plan, Section 2.2.1. of the 2008 Qualified Allocation Plan, or Section 2.6 of the 2007 Qualified Allocation Plan.</p>
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5 points	The General Partner is a community housing development organization (CHDO) as defined in 24 CFR Part 92.2.
0 to 20 points	Projects that provide units that are set aside and occupied by tenants with incomes at or below forty percent (40%) AMGI and are rent restricted (as committed to in the Tax Credit Application) 1 point for each full one percent (1%) of the total Project Units up to 20%

Best Use of Investment

Request for Section 1602 funds do not exceed the following:

20 points	Section 1602 amount requested is \$30,000 or less per LIHTC unit
15 points	Section 1602 amount requested is \$40,000 or less per LIHTC unit
10 points	Section 1602 amount requested is \$50,000 or less per LIHTC unit
5 points	Section 1602 amount requested is \$60,000 or less per LIHTC unit

Points are not cumulative. The amount specified in the Request for Information response is the maximum amount of Section 1602 grant allowed per unit if the project seeks “points” in this category.

III. General Requirements

In addition to the terms of the Section 1602 criteria, owners will comply with the QAP in effect at the time of the project’s award of credits.

Prior to closing the Section 1602 grant agreement, IFA may negotiate a share of any funds distributed, as a result of a sale, refinancing or other capital event related to the project, on a pro rata basis based on a ratio of Section 1602 grant funds to LIHTC equity proceeds.

Unless otherwise negotiated with the syndicator/investor, IFA will not allow excess cash to be disbursed from the project without IFA’s prior approval until seven years after the project has been placed in service. IFA may require excess cash to be placed in reserve.

IFA shall perform asset management functions so as to ensure:

- a. Compliance with Section 42 of the Code and the regulations thereunder (including Title 26 CFR Section 1.42.9); and

- b. The long-term viability of the projects funded by a Section 1602 grant under the Act in accordance with Section 1602(c)(3) of the Act.

IFA shall charge reasonable fees to the Ownership Entity for the performance of these functions.

A. Underwriting Standards

1. Financial assistance will be no more than the lesser of:
 - (a) The project's eligible basis, and
 - (b) What is necessary to ensure the project's financial feasibility and viability for fifteen (15) years based on the Agency's IRS Code Section 42(m)(2) review of the operating proforma.
2. Owners will record a thirty (30) year Declaration of Land Use Restrictive Covenants (Declaration) pursuant to QAP Section VI(A)(9).
3. The Ownership Entity must provide an updated underwriting model which clearly reflects new funds being requested, as well as any other change in the financial structure of the project.
4. IFA will have the ability to make changes to a project's approved LIHTC application, if applicable, including but not limited to the sources, uses, income and expenses.
5. Owners will need to provide updated commitment letters from all permanent funding sources.
6. The housing, equity, and lending markets have all faced tremendous stresses over the past few months, and as a result, evaluating the feasibility of projects in this economic environment requires adjustment of underwriting parameters. For properties to be sustainable long term, the operations budget will require sufficient cushion to withstand negative economic events. Therefore, when underwriting these projects in cooperation with the syndicator/investor, IFA may implement these tougher underwriting criteria:
 - Debt service coverage ratio: 1.25 overall, unless circumstances warrant the use of an alternative standard (example: USDA Rural Development financed projects);
 - Projects with less than 20 units: minimum cash flow of \$175 per unit;
 - Minimum operating reserves: \$2000 per unit or 8 months debt service and operation expenses; and
 - Vacancy rate: 8%

IFA recognizes that this may result in a greater concentration of subsidy resources, however, we consider it a necessary tradeoff to ensure that allocations made are used successfully in sustainable properties.

B. Post-Award and Grant Terms

1. The Section 1602 grant agreement will specify construction schedules. If an owner fails to expend Section 1602 funds according to the commitment, IFA will assess whether the delay will affect its ability to meet federal requirements. Depending on the circumstances, IFA may allow the owner an opportunity to remedy the situation. However, under no circumstances can the payout of Section 1602 funds exceed the Federal time limits.
2. If a construction delay will affect IFA's ability to meet ARRA expenditure requirements, IFA will take necessary steps to redistribute Section 1602 funds to a more deserving project, including the following:
 - De-obligating the remaining Section 1602 funds;
 - Initiating foreclosure proceedings to recoup amounts already expended; and
 - Redistributing the de-obligated and/or recouped Section 1602 funds to other eligible projects based on the selection criteria in Section II.
3. Remedies for grant agreement default or other noncompliance may include IFA having the ability to do some or all of the following:
 - Declare participants not in good standing;
 - Change the structure of the Ownership Entity, including adding or removing members/partners;
 - Replace the management company;
 - Initiate foreclosure proceedings; and
 - Other remedies as determined by IFA.
4. In the terms in the grant agreement, IFA, on behalf of the U.S. Treasury, will require repayment of all funds or other appropriate remedies:
 - Project never becomes a qualified LIHTC project.
 - Owner fails to complete construction.
 - Project experiences prolonged uncorrected compliance.
 - Project fails to meet the requirements of Section 42 for the compliance period.

Section 1602 grant funds are subject by the U.S. Treasury in the same manner as tax credits. Any amount subject to recapture becomes a debt owed to the United States payable to the General Fund of the Treasury and enforceable by all available means against any assets of the Ownership Entity.

Reporting and Compliance

1. The owner shall provide periodic reports as required by the Treasury. A financial status report and project performance report is required on a quarterly basis. A reporting schedule will be established by IFA. The owner will also submit any other reports that the Treasury deems necessary to comply with any requirements of the Treasury or ARRA Accountability, Transparency, and Reporting Requirements. The performance report, at a minimum, has the following elements for each project receiving Section 1602 grant funds:
 - Name of recipient entity.
 - Name of project.
 - Brief description of project.
 - Location of project: city/county, state, zip code.
 - Number of construction jobs created.
 - Number of construction jobs retained.
 - Number of non-construction jobs created.
 - Number of non-construction jobs retained.
 - Number of total housing units newly constructed.
 - Number of total housing units rehabilitated.
 - Number of low-income housing units newly constructed.
 - Number of low-income housing units rehabilitated.
2. Owners will follow IFA's processes and procedures applicable to IRS Code Section 42 projects with an investor and any additional compliance requirements made necessary due to Section 1602 funding.