



Louisiana Housing Corporation
2415 Quail Drive, Baton Rouge, Louisiana 70808

Memorandum

Date: April 10, 2013
To: Administration
From: Tax Credit Department
Subject: Credit Return/Reallocation Protocol

Background

Staff has recently received several requests to return 2011 credits voluntarily in exchange for a reallocation of the returned credits that become part the 2013 housing credit ceiling. A project's placed in service date is statutorily extended to December 31, 2015 if a prior year's credit is returned and the project is allocated credits from the 2013 credit ceiling. Section 42(m) of the Internal Revenue Code, however, requires another feasibility/viability report as of the date credits are allocated from the 2013 housing credit ceiling in accordance with the 2013 Qualified Allocation Plan ("QAP").

In light of the increase in the volume of requests received and in order to establish a policy protocol for processing requests for voluntary credit return/reallocations, staff is recommending the following procedures for evaluating and approving such requests. Every request for a voluntary credit return/reallocation must be formally submitted in writing. Each voluntary credit return/reallocation request will be evaluated by staff and placed on the upcoming Board agenda for Board consideration. If the request involves any material changes, approval for the material change will be included in the board material package. The LHC Board will be required to provide approval to allocate any credits from the current housing credit ceiling but under the rules of the QAP from which the returned credits were originally allocated.

Analysis

1. Circumstances requiring the return/reallocation –Identify the circumstances requiring the request such as third party involvement, material changes to the project, delays in the project schedule or benchmark dates;

2. Foreseeable circumstances –Identify any measures the developer has taken to prevent or resolve the circumstances, determine whether circumstances resulted from force majeure or circumstances beyond the control of the developer/owner; and
3. Consequences of disapproval –Identify what effects, if any would occur if the request for return/reallocation is not approved, determine what other options are available to the project.

Procedure

1. Staff alerts the Program Administrator of the receipt of any request to voluntarily return a prior year credit in exchange for an allocation from the current housing credit ceiling;
2. If a reprocessing or material change is involved, required application with back-up documents are forwarded to the underwriter;
3. Staff reviews formal requests using the aforementioned factors and provides a project summary to LHC Administration that includes a recommendation to approve or disapprove the voluntary return/reallocation;
4. The voluntary return/reallocation request is included on the upcoming agenda of the Board of Directors. The request to approve any material changes and the return/reallocation will be included in the resolution summary;
5. Outcome of any such request documented in the project file and on the non-closed project report;
6. Taxpayer/owner provided written correspondence advising of the outcome of the request; and
7. Upon approval of a reallocation of credits developer/owners become subject to an award fee equivalent to 5% of the reallocated credits.

Pros

1. Without approval awarded projects requesting a return/reallocation may not be able to proceed, resulting in a lost affordable housing. These projects are often approaching closing and have already invested resources into the project.
2. Circumstances requiring the return/reallocation are often outside of the control of the developer/owner.
3. A reallocation of credits from a later credit ceiling does not automatically extend the projects placed in service date. Any time delays occur to the project schedule or benchmark date by greater than 90 days, the developer is required to notify the Corporation. Board approval is required if the delay exceeds 180 days.
4. Once projects are awarded, the Corporation partners with the taxpayer to assist in bringing the project to fruition.

Cons

1. Approval of the request may result in projects receiving additional time to place in service that was not afforded to projects not requesting a return/reallocation.

2. Recaptured credits resulting from a denial of a return/reallocation request may result in funding a project from active waiting list that is lower ranking, or not ready to proceed.