

## **Appendix I:**

### **Fifth Amendment to Tax Credit Exchange Guidelines – May 27, 2010**

As of May 27, 2010, the Department of Housing and Community Development (“DHCD”), as the Massachusetts state housing credit agency, amends these Tax Credit Exchange Program (TC-X) Guidelines of August 11, 2009, as previously amended in September, October, and December 2009, and February 2010, to set forth additional eligibility criteria for certain applicants in the competitions for TC-X awards after this amendment date:

Background:

#### The First Competition:

On June 30, 2009, DHCD submitted its first exchange request, totaling \$50,814,102, to the U.S. Department of the Treasury. DHCD established August 28, 2009, as the application deadline for the first funding competition for exchange funds. On that date, the Department received 15 applications for exchange funds. At the conclusion of the review process, DHCD approved \$50,345,661 in exchange awards to ten projects.

#### The Second Competition:

On September 18, 2009, DHCD submitted its second exchange request, totaling \$27,314,301, to the U.S. Department of the Treasury. DHCD established October 9, 2009 as the application deadline for the second funding competition for exchange funds. On that date, the Department received seven applications for exchange funds. At the conclusion of the review process, DHCD approved \$30,435,803 in exchange awards to five projects.

#### The Third Competition:

On October 20, 2009, DHCD submitted its third exchange request, totaling \$27,907,047 to the U.S. Department of the Treasury. DHCD established November 6, 2009, as the application deadline for the third funding competition for exchange funds. On that date, the Department received six applications for exchange funds. At the conclusion of the review process, DHCD approved \$22,539,940 in exchange awards to three projects.

#### The Fourth Competition:

DHCD established December 10, 2009, as the application deadline for the fourth funding competition for exchange funds. On that date, the Department received two applications for exchange funds. Neither application received an exchange award.

#### The Fifth Competition:

On December 23, 2009, DHCD submitted its fourth exchange request, totaling \$4,310,469, to the U.S. Department of the Treasury. DHCD established March 5, 2010, as the application deadline for the fifth funding competition for exchange funds. On that

date, the Department received applications for exchange funds. One application received an exchange award of \$5,290,273.

The Sixth Competition:

DHCD has established June 15, 2010 as the application deadline for the sixth funding competition for exchange funds. Applications are due at the Department by close of business on that date.

**All interested parties should note the following: The threshold eligibility criteria for the sixth funding competition will differ from the threshold eligibility criteria for the previous five exchange competitions.** Certain low-income housing tax credit projects that received credit and subsidy awards from the Department during 2009 will be eligible to apply for the limited exchange funds available during the sixth competition. To be eligible for consideration, projects with 2009 awards must meet the following criteria:

- The sponsorship entity must be a non-profit entity;
- The project submitted for consideration cannot have a prior TC-X or TCAP award from DHCD;
- All units in the project must be tax credit units and must have been proposed as tax credit units at the time of the DHCD credit and/or subsidy award;
- The sponsor must demonstrate to DHCD that it has made every effort to secure a commitment of private equity from a syndicator or a direct investor on terms acceptable to DHCD;
- The exchange amount requested of DHCD must be sufficient to permit the sponsor to proceed to a full loan closing within 120 days of an exchange award;

DHCD reserves the right to limit the amount of any exchange award during the sixth competition, based on availability of funds.

Any projects that were eligible for exchange consideration prior to the date of this amendment remain subject to the same eligibility criteria for the sixth exchange competition. The scoring system for the sixth competition is the same as the scoring system used by DHCD during the previous exchange competitions. (Please note that DHCD applied the same scoring system to all TCAP applications as well.) DHCD will review applications to the sixth competition in chronological order, beginning with the projects that received tax credit and/or subsidy awards in 2007, followed by the 2008 projects, and then the 2009 projects.

At this time, DHCD does not anticipate submitting any further exchange requests to the U.S. Department of the Treasury. The Department will notify interested parties if DHCD decides to submit additional exchange requests during 2010.

***Closing and Construction Start Deadlines:*** As set forth in the Tax Credit Exchange Program (TC-X) Guidelines of August 11, 2009, as amended on September 25, 2009 and October 22, 2009, and February 19, 2010, applicants must demonstrate that financing will close within 120 days of the TC-X award and that construction will start within 45 days thereafter. Awardees that fail to meet this timing requirement will forfeit the TC-X award. As the closing process has begun for awardees of TC-X, DHCD's counsel have learned of potential delays caused by public funding requirements that are beyond the TC-X awardee's control. DHCD reserves the right to permit up to 150 days for a TC-X project to close on all financing if delay arises due to events occurring after the date of the TC-X award that are outside the awardee's control.