



STATE OF MICHIGAN

RICK SNYDER  
GOVERNOR

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

GARY HEIDEL  
EXECUTIVE DIRECTOR

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MEMORANDUM

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**DATE:** AUGUST 8, 2012  
**TO:** INTERESTED PARTIES  
**FROM:** ANDREW MARTIN, LIHTC ALLOCATIONS MANAGER  
**SUBJECT:** EXPIRATION OF THE 9% CREDIT RATE & AUGUST 2012 ROUND CREDIT AVAILABILITY

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EXPIRATION OF 9% CREDIT RATE

The Housing and Economic Recovery Act of 2008 (HERA) made many modifications to the Low Income Housing Tax Credit (LIHTC) program. One of the major modifications, although temporary, was the inclusion of a provision allowing LIHTC projects placed in service after July 30, 2008 and prior to December 30, 2013 to receive a credit rate equal to 9 percent for non-Federally subsidized buildings that are newly constructed or substantially rehabilitated, as opposed to using the substantially lesser floating monthly rate. Projects placed in service after the December 30, 2013 date will no longer be able to use the 9 percent credit rate, but instead will need to use the floating monthly credit rate published by the Internal Revenue Service (IRS), which can result in a significant decrease in credit and equity for a project. The purpose of this memo is to ensure that stakeholders are aware of this looming deadline as they begin to prepare to submit LIHTC applications and to provide applicants with information regarding how the Authority plans to process projects in the upcoming August 15, 2012 funding round as it relates to this credit rate.

On a related note, applicants should note that, recently the Senate Finance Committee adopted an amendment to extend the 9 percent fixed credit rate by applying the fixed rate to Housing Credit allocations made before December 31, 2013 rather than developments placed in service before that date, as current law requires. While this amendment has been added to the Extenders Legislative Package currently under consideration in Congress, it has not been formally approved as of this date. Therefore, the Authority is proceeding cautiously and will process applications in the upcoming August 2012 funding round under current law.

With regard to the credit rate, the 2013-2014 Qualified Allocation Plan (QAP) indicates that MSHDA will use the greater of 3.4% (used for acquisition costs and for tax-exempt bond financing transactions) and/or a 7.6% credit rate (used for rehabilitation or new construction costs), or the floating monthly credit rate published as of the time of application submission in its determination of the amount of credit to award. These rates were included in the QAP and intended to be used for the August 2012 Funding because 1) they allow for more flexibility in underwriting due to the fluctuating monthly rates and 2) based on MSHDA's experience over the last several years, both with MSHDA-financed projects and projects where MSHDA is simply functioning as the allocating agency, there have been very few projects that have been able to close on their financing in timeframe that would allow for construction completion by the end of 2013.

While the Authority believes that applicants should be extremely cautious in this area and conduct a realistic assessment regarding their ability to place a project in service by the required deadline, the Authority will consider allowing applicants to use the 9% credit rate (in lieu of a 7.6% credit rate) as part of an August Funding Round application submission if they can provide certain documentation. At a minimum, the following documentation, which will also be confirmed by MSHDA again prior to making an award of credit, must be submitted as part of an application for credit by applicants choosing to use the 9% credit rate:

- Equity Provider Confirmation – Submission of documentation from the proposed LIHTC equity provider confirming that it has reviewed the project, the sources of financing planned, the development team, and the proposed project completion timeline, and that the equity provider is willing to invest in the project using the 9% credit rate. This documentation should be in addition to, and separate from, the equity investor letter documentation normally submitted with the application.
- Project Timeline – Submission of a realistic project timeline demonstrating that the project can be placed in service and receive certificates of occupancy (if applicable) with a target date of November 2013, but no later than December 30, 2013.
- Alternative Plan – Submission of an alternative plan, which does not contemplate additional financing from MSHDA, demonstrating how the project will proceed should it fail to meet the December 30, 2013 placement in service date.

In evaluation of the above items as part of an application submission, MSHDA may use its sole discretion in the determination of whether or not a project is likely to be able to be completed in time for use of the 9% credit rate and whether or not use of the 9% credit rate is a viable option for a project.

Applicants who choose to use a 9% credit rate based on submission of the above items should also be aware of and consider the following when making the determination of how they want to underwrite their deal and which credit rate to use:

- Choosing to use the 9% credit rate and structuring a project based on that rate is the sole risk of the development team and the project owner. If an owner chooses to use the 9% credit rate, the development team should proceed assuming that it is responsible for meeting the December 30, 2013 placed in service requirements for use of the 9% credit rate and that it is responsible for addressing any negative impacts on a project should the project not be able to be placed in service within the required timeframes.
- Owners who choose to use the 9% credit rate will not be given additional time by MSHDA, whether through an exchange of credit or other extensions, to meet required deadlines due to circumstances that might arise if it is determined that they are no longer going to be able to use the 9% credit rate. This includes any additional time that might be needed to find alternative sources to fill the resulting funding gap if a project fails to meet the December 30, 2013 deadline for placing a project in service to receive the 9% credit rate.
- Over the last several years, it has been MSHDA's experience that very few deals have been able to close in less than 6 months, with the average timeframe needed probably being closer to 8 months for a full closing. This has been true regardless of whether or not MSHDA is the lender. Assuming LIHTC awards are made sometime in early November 2012, which has been the average timeframe needed for processing applications, this could likely mean that a project

would not be able to begin construction until June or July of 2013, giving applicants only a few months to meet placement in service requirements. While this timeline will not be the same for all projects, it has been true for most. In MSHDA's estimation, this timing would not allow for many, if any, projects to be able to complete construction by the end of 2013. Therefore, applicants should realistically assess whether or not they will be able to meet the deadline, particularly if there are any unusual complexities related to their projects.

#### AUGUST 15, 2012 FUNDING ROUND CREDIT AVAILABILITY

Recently the Authority received approximately \$3,000,000 in returned credit from projects allocated credit in a prior year that were unable to move forward for various reasons. With regard to this returned credit, MSHDA has determined that this amount will be included in the upcoming August 15, 2012 funding round for 9% LIHTC. This decision was made in an effort to get more funding out into the communities sooner, to allow construction of developments to commence more quickly, to promote job growth and job creation, and to allow for at least the potential for more projects to be able to use the 9% credit rate. With the addition of this \$3,000,000 in returned credit to the 50% of the 2013 credit ceiling that was already going to be made available as part of the August 2012 funding round, there will now be approximately \$14,000,000 of annual credit available to projects applying in the August 2012 funding round.

#### QUESTIONS

If you have any questions regarding either the expiration of the 9% credit rate or the amount of credit available for the August 2012 funding round, please contact LIHTC staff at (517) 373-6007.