

**NOTICE TO TAX CREDIT PROGRAM PARTICIPANTS AND
STAKEHOLDERS REGARDING THE HOUSING AND ECONOMIC
RECOVERY ACT OF 2008**

On July 30, 2008, President Bush signed into law H.R. 3221, The Housing and Economic Recovery Act of 2008 (The Act). Based upon the provisions of The Act, Oklahoma Housing Finance Agency (OHFA) Staff will be making the following recommendations to the Board of Trustees at its September 18, 2008 meeting. OHFA welcomes any and all written comments from interested parties regarding these recommendations. Written comments should be addressed to Mr. Dennis Shockley, Executive Director, or Mr. John Marshall, Housing Development Team Leader. OHFA will accept comments submitted electronically via email.

Additional Credits for 2008 and 2009

Under the provisions of The Act, the State of Oklahoma will receive an additional \$.20 per capita in Tax Credit volume cap for both 2008 and 2009, representing approximately \$700,000 in additional credits for each year that will be available for allocation.

In regard to the 2008 credits, OHFA Staff intends to recommend to the Board that these credits be added to the pool of credits to be awarded at the November Board meeting for the Second Cycle of 2008. This recommendation is in accordance with 2008 Tax Credit Rules, Title 330, Chapter 36-2-9, which state that additional tax credits that become available during any calendar year shall be “prorated among all the remaining cycles for which awards have not been made by formal action by OHFA.”

In regard to the 2009 credits, OHFA Staff will recommend to the Board that these credits be added to the total credits available for calendar year 2009 and prorated between the First and Second Cycles of 2009.

Eligible Basis Increases Outside of Federally Designated Areas

The Act gives OHFA wide latitude in designating projects of certain types or in certain areas of the state as eligible to use 130% of the project’s eligible basis to calculate tax credits. OHFA Staff does not intend to implement this “boost” for any projects in 2008, as all applications received have indicated financial feasibility without this additional boost. Implementation of an increase for certain areas or certain types of projects may be considered during the emergency rule-making process for 2009, which is already underway.

Fixed Nine Percent (9%) Applicable Percentage

Newly constructed buildings that are not federally subsidized and are placed in service after July 30, 2008 and before December 31, 2013 will have an unadjusted applicable percentage of nine percent (9%) instead of an adjusted applicable percentage as set forth previously in Internal Revenue Code Section 42 (the Code). If there is a drastic change

in the economic environment, and the adjusted applicable percentage rises above the nine percent (9%) level, the greater of the two percentages will be used, but that event does not appear likely at this time.

Applications for the Second Cycle of 2008 will be underwritten as presented. Underwriting at the higher nine percent (9%) rate would not result in an increase in credits, since the 2008 Qualified Allocation Plan (QAP) clearly states, "The amount of the tax credits requested cannot be increased after the application has been submitted to OHFA."

For newly constructed, non-federally subsidized buildings placed in service after July 30, 2008, OHFA will use the nine percent (9%) rate when issuing any Forms 8609. However, pursuant to the Tax Credit Rules, OS 330:36-2-17(f), "The total dollar amount of the final Allocation of Credits set forth on IRS Form 8609(s) shall not exceed the allocation amount for the Development (or Building(s)) approved by the Trustees."

Other Changes

There are numerous other changes to The Code that are included in The Act, and OHFA recommends that all Tax Credit Program stakeholders thoroughly familiarize themselves with these changes, including the effective dates of said changes, since not all of them became effective upon passage of the bill.

This notice is intended to address those issues of immediate concern and interest to Tax Credit Program participants and stakeholders in the State of Oklahoma.

OHFA is currently in the process of drafting and adopting emergency rules for 2009 that incorporate all of the changes as mandated in The Act. Emergency rule changes will only be for changes mandated by The Act. Some changes may be incorporated in the QAP as a part of the Application Instructions.

Certain changes that involve Tax Credit compliance will be addressed in an Addendum to the OHFA 2008 Tax Credit Compliance Manual that is currently being drafted by OHFA Staff and will be available soon on our website, www.ohfa.org.