

SUBCHAPTER 10. CREDIT ASSISTANCE/STIMULUS LEGISLATION

330:36-10-1. Purpose.

The purpose of this Subchapter is to outline OHFA's procedures for implementing new funding resources specifically identified for use in connection with the OAHTC Program. The American Recovery and Reinvestment Act (ARRA), enacted on February 17, 2009 provides new federal stimulus programs for eligible Owners of Credit Developments. The purpose of this Subchapter is to outline OHFA's procedures for implementing the stimulus programs of the ARRA and future programs which may be authorized and funded federally or at the state level.

330:36-10-2. [RESERVED]

330:36-10-3. Authority.

OHFA has been designated as the State's housing credit agency responsible for the Allocation of Credits made available to the State. This authority provides that OHFA shall administer any funding resources directed to the OATHC Program. Both the "Tax Credits: Grants (Exchange)" and the "Tax Credit Assistance Program (TCAP)" sections of ARRA provide that these funds shall be administered by the "State Housing Credit Agency".

330:36-10-4. [RESERVED]

330:36-10-5. Definitions.

Reference is made to 330:36-1-4 and the Section 42 of the Code for any words or terms used in this Subchapter.

330:36-10-6. [RESERVED]

330:36-10-7. Tax Credits: Grants.

(a) The ARRA provides that OHFA has the option of exchanging certain Credit Allocations to the State for a cash payment to OHFA. The cash payment received by OHFA may be used by OHFA to make ARRA sub-awards to selected Applicants who qualify under the QAP for a Credit Reservation and Allocation. In OHFA's sole discretion for the best use of these funds, these sub-awards may be made in the form of either a grant or a loan.

(b) OHFA shall develop an Application process for applying for ARRA funds. The Application process will be consistent with the QAP and Section 42 of the Code and any regulations provided by Treasury as to the use of the funds made available under ARRA for sub-awards.

(c) At the time of the Application for an ARRA sub-award, the Applicant must demonstrate a good faith effort to obtain investments commitments for Credits previously allocated to the Owner.

(d) The Owner of the Building(s) identified in the Carryover Allocation Agreement and/or Regulatory Agreement receiving an ARRA sub-award must maintain said Building(s) as Qualified Low-Income Building(s) during the Development Compliance Period. Failure to maintain the Building(s) as Qualified Low-Income Building(s) shall result in the recapture of the ARRA sub-award.

(e) Recipients of ARRA sub-awards will be required to enter into such agreements and documentation as OHFA, in its sole discretion, deems necessary to ensure that the provisions of any requirements of the U.S. Department of the Treasury, these Chapter 36 Rules, the Code, any relevant rules, regulations, rulings or other guidance issued by the IRS and terms of the ARRA sub-award are met throughout the Development Compliance Period. Required agreements and documentation may include without limitation, loan documentation, an amended Carryover Allocation Agreement and/or Regulatory Agreement and Owner guarantees.

330:36-10-8. [RESERVED]

330:36-10-9. Tax Credit Assistance Program (TCAP).

(a) The ARRA provides funds through the HOME Investment Partnership Program (the "HOME Program") for awards to certain Owners of Credit Developments. These funds have been designated Tax Credit Assistance Program (TCAP) by HUD. In OHFA's sole discretion for the best use of these funds, these awards may be made in the form of either a grant or a loan.

(b) OHFA will develop an Application process for awarding TCAP funds to eligible Credit Development Owners. The Application process will be consistent with the QAP and Section 42 of the Code and any regulations provided by Treasury or HUD as to the use of funds made available under the ARRA for awards.

(c) The Application for the TCAP funds will include a competitive component. Evaluation Criteria will be developed, but will include, without limitation, a priority for Developments expected to be completed and Placed in Service by February 17, 2012.

(d) Any Owner failing to expend awarded TCAP funds within the time period specified in the TCAP Award Agreement between the Owner and OHFA shall return the funds to OHFA for redistribution.

(e) Recipients of ARRA TCAP funds will be required to enter into such agreements and documentation as OHFA, in its sole

discretion, deems necessary to ensure that the provisions of any requirements of the U.S. Department of the Treasury, HUD, these Chapter 36 Rules, the Code, any relevant rules, regulations, rulings or other guidance issued by the IRS and terms of the ARRA TCAP are met throughout the Development Compliance Period. Required agreements and documentation may include without limitation, loan documentation, an amended Carryover Allocation Agreement and/or Regulatory Agreement and Owner guarantees.

330:36-10-10. [RESERVED]

330:36-10-11. Asset Management.

(a) OHFA shall perform asset management functions to ensure compliance with section 42 of the Code and the continued long term viability of Building(s) funded by either form of assistance identified in this Subchapter. OHFA may sub-contract this function to another entity (ies).

(b) Any Building(s) receiving funds pursuant to the Grant Program of the TCAP shall be subject to all restrictions and regulations of the OAHTC Program, Section 42 of the Code and, as applicable, the HOME Program.

330:36-10-12. [RESERVED]

330:36-10-13. Fees.

(a) Fees will be structured to comply with Subchapter 4, Section 4-3. Allocation or Reservation amounts will be replaced with the ARRA funding amount and so calculated. All Fees as set out in these Chapter 36 Rules will be due and payable at such times as OHFA instructs Applicants.

(b) An annual Asset Management Fee shall be due on March 17 for each year of the Development Compliance Period. The Fee shall be negotiated by all parties based upon market for such services at the time of the Award of funding from the ARRA funds. If there has been Asset Management services previously agreed upon, then they will remain in effect.

330:36-10-14. [RESERVED]

330-36-10-15. Other Enactments of Law.

In the event additional federal or state assistance/stimulus programs benefiting the OAHTC Program become available to the State through OHFA, OHFA shall immediately implement such procedures as OHFA deems necessary, in its sole discretion, to access these funds for the purpose of Allocating, granting, awarding, etc. to Qualified Owners of Tax Credit Developments. The process developed for the current economic

stimulus programs available and future enactments of law will be consistent with the goals of the QAP, the Chapter 36 Rules, Section 42 of the Code and any relevant rules, regulations, rulings or other guidance issued by the IRS and, as relevant the regulations of the HOME Program and guidance from HUD. The Application process and procedures developed will be reviewed annually by OHFA through normal procedures.