

**Competitive Process And Selective Criteria For Tax Credit Assistance Program (TCAP)**  
**Minutes and Comments from the Public Hearing**

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**1) Monday, May 18, 2009, 1:00 to 3:00 p.m.**  
**Salem, Oregon Department of Fish and Wildlife, Commissioner's Room:**

Attending from Oregon Housing and Community Services Department (OHCS or the Department) are Mariana Negoita, Betty Markey, Carole Dicksa, Tony Penrose, David Summers, and Susan Bailey. In attendance for the hearing:

Jonathan Trutt, Northwest Housing Alternatives  
Charlie Harris, CASA  
Douglas MacRae, Willamette Neighborhood Housing Services

Mariana Negoita: Good afternoon. Thank you for attending the Public Meeting for the TCAP Competitive Selection Process and Criteria. My name is Mariana Negoita. I am the LIHTC Program Manager. With me here today are several other OHCS staff including Carole Dicksa, Home Program Manager and Betty Markey from the Multi Family Housing Section at OHCS.

Today we are here to present to you the ARRA Low Income Housing Tax Credit Program with a focus on the TCAP Competitive Selection Process and Criteria. Following my presentation, we will open this forum for your comments and I will be taking copious notes. Written comments will be compiled and responded to in writing. Time permitting, we will post ARRA LIHTC Program questions and answers to the LIHTC portion of our website. OHCS will accept written comments for the TCAP Competitive Selection Process and Criteria through May 20<sup>th</sup> at 5:30 PM.

Without further ado, I'll delve into this presentation.

- The LIHTC program is impacted by the American Recovery and Reinvestment Act of 2009 through 2 programs: the Tax Credit Assistance and the Tax Credit Exchange program, also known as Section 1602.
- OHCS is the grantee and/or awardee for each of these programs and has been tasked with defining the parameters and deploying these resources.
- Both programs are directed to capital investment needs of LIHTC awarded projects who are, or have been stalled during the recent financial crisis.
- Briefly – the TCAP programs brings to Oregon \$27,343,971 and is available to LIHTC projects awarded credits from Oct. 1 2006 to Sept 30, 2009.
- Section 1602 is available to projects with 2008 or 2009 credit awards. 1602 brings to Oregon a trade of 40% of 2009 9% credits at \$8.50/credit, and one hundred percent of 2008 9% credits that are unused or returned.

- One of the 4 part formula for this program has been calculated. Oregon does not have any 2008 unused credits to exchange. So the portion of the Tax Credit Exchange Program that has been calculated is 40% of the 2009 per capita authority and is \$29,630,269.

TCAP is a program administered by HUD and is subject to federal funds and federal crosscutting regulations as listed on this slide. TCAP is not subject to the Uniform Relocation Act and the funds, are not considered HOME funds, though many of the HOME regulations apply to TCAP.

- Section 1602 is administered by the US Treasury and grantees like OHCS are asked to exchange 9 % per capita credit from 2008 and 2009 authority.
- OHCS is tasked with awarding resources resulting from this exchange to projects with or without an allocation.
- Projects must be compliant with section 42 and must demonstrate “good faith efforts” to receive an investment commitment prior to being eligible for this program.
- Allocations of 1602 are subject to a 1/1/2011 deadline – unused funds will be returned to Treasury.

### **OHCS plans**

- OHCS plans to apply for its entire TCAP allocation, commit and expend it in the timeline requirements according to HUD requirements
- OHCS will make the final determination as to each project’s award of ARRA funding, depending on the portfolio of projects and the total resources available. OHCS will look at its efficient use of TCAP, 1602 or any combination of these and other OHCS resources, including OHCS bonds.

Now for the reason we are all here: the TCAP program and the Competitive Selection Process and Criteria which are subject to public comment for a period of 5 days. Written public comment will be accepted until May 20<sup>th</sup> at 5:30 PM and was open on May 14<sup>th</sup>.

Program definitions – while these apply to both section 1602 and TCAP, for this part of the presentation I will concentrate only on TCAP.

Award is defined by OHCS as the receipt of a letter from OHCS offering to reserve credits for a project. Both 4% and 9% credits receive these offer letters. An award has either already been made or will be made by September 30, 2009 in order for the project to be eligible for TCAP.

A Stalled project is a project whose capital investment has been impeded and construction has not begun or has stopped.

Non material error (which will play a part later in the presentation) is an error or inconsistency not affecting an award of TCAP.

Commitment is an execution of an agreement between the Sponsor and OHCS to commit ARRA funding.

## General eligibility for TCAP

- Projects with an offer of credits that have not received or are requesting 8609 forms. As outlined in the QAP, issuance of 8609 forms defines completion of the award process.
- Projects that have not closed their partnerships
- Projects that experience a funding gap and may or may not have an investor
- Projects that have not materially changed from the original application – numbers of units, site, rents and income targeting, remain the same
- Projects that will meet the TCAP expenditure requirements and completion deadlines

## The Process

- OHCS will use a self scoring process supported by certifications as provided by OHCS
- OHCS will require documentation supporting the application points
- OHCS will validate the self scored application and may reduce if attribution is not supported by the certifications and documentation provided
- OHCS will not award additional points if not initially claimed by the sponsor

The competitive selection criteria consist of 3 tests:

- The OHCS Priorities Test
- The Readiness Test
- The Sponsor Capacity and Community Impact Test

## OHCS Priorities

- Preservation of existing housing with federal rental subsidies (25% of the project or more)
- Maximizing resources through the use of OHCS bonds

## The Readiness Test

- Investment Availability – project has an investor interested and can provide documentation, thus attributing 20 points
  - OR, project does not have an investor which makes it a bit more challenging to fund with TCAP, in which case the project must provide documentation for the section 1602 program's good faith efforts test
- Lender availability test indicates to us that lenders have been engaged and are in the process of underwriting the project
- The readiness test also includes a shovel readiness review worth 50 points. This looks to ensure the project is ready to proceed and has completed or will complete HUD requirements by the time funding is available. These include Davis Bacon, Section 504 among other requirements as outlined prior in this presentation.
- In the readiness test, there are 10 additional points for all other funding to remain in place.

**The Sponsor Capacity and Community Impact Test** includes 10 points and it looks to the project timeline, to make sure the project is ready to proceed. It looks to the project sponsor's to ensure that they are concentrating on this project and they are able to meet the funding and timing requirements. It looks again to the sponsor to make sure within the 15 year period the

project will be feasible and well managed.

There are two tie breakers associated with this process. That will be the greatest number of units that the project will have rental subsidy for, and an award of credits that predates all other awards.

That concludes my presentation and I am now opening this session for public comment on the TCAP Competitive Selection Criteria and Process. We will not be answering questions at this time.

**Jonathan Trutt, Northwest Housing Alternatives:** I want to thank the Department for putting this out and giving us all the chance to comment on this. I know there is a lot of stuff being thrown at you guys to try to sort through, and we appreciate everything that you are doing.

Under the introduction, in the second paragraph, it talks about determinations to award ARRA will be the sole discretion of OHCS, and will follow the procedures of competitive LIHTC award process disgression, and OHCS underwriting criteria. That made me think back to the Miller Nash Seminar, where folks from US Bank and Wells Fargo were talking about how much more closely they look at the underwriting. I was sitting next to someone from OHCS (no name), who said, "Wow, That conflicts with our QAP.", when they were talking about debt service coverage ratios. So I just wondered about that.

Under Note 3, Page 4, the very first sentence where it talks about how OHCS will make the final determination as to whether a gap will be funded through TCAP, section 1602, a combination, other OHCS resources, and OHCS bonds. I wondered what it meant by OHCS Bonds? There is certainly a way in which the 9% queue is clogged. Speaking only as one developer and only from our own organization, we are very amenable to working with bonds and 4%<sup>s</sup> if that is what makes everything work well. The additional thought there is that you want the projects to be whole. So, if there is a \$6 million dollar project and it started off with \$4 million in equity and \$2 million of debt and those get reversed, then that's great. But I was just curious about how bonds are going to come into the picture, and imagine the department is thinking the same way we are, that we want high quality projects that last. We want to stick to the original budget, even if we are swapping out 9% for 4%<sup>s</sup>.

My other main question is the National Environmental Protection Agency (NEPA) process for projects getting TCAP? I know that puts additional work on the department. How to get through that process pretty fast and what kind of materials you may want to collect from project sponsors in advance to help facilitate that?

Thanks again for the opportunity. I will put things in writing.

**Charlie Harris, CASA of Oregon:** It is impressive that you guys were able to pull this together in such short notice and we much appreciate it. I was a little confused about the title of the notice, which was for TCAP comments, but it certainly seemed included the 1602 process as well, I wasn't quite sure if you were taking comments on both?

**Mariana Negoita:** No, we are only taking comments on the TCAP process and selection criteria, and the process by which we are awarding that.

**Charlie Harris:** ...and the fact that they are inclusive. You have to go through both at the same

time as far as I can tell.

**Mariana Negoita:** We will be using the same process for both programs, but the TCAP program requires that we take public comment.

**Charlie Harris:** The primary comments I have regard the priority status that you showed earlier. The first one that gives 10 points each for being a preservation project and 10 points for being a bond project. I understand that you are not amending the QAP. I couldn't find anything in the QAP which gives a preference for bond projects, but in essence that is what you are doing if scoring 10 points for it. My suggestion would be since the QAP does give a preference for preservation projects, and we certainly support that, that you get 20 points for being either a preservation project or a bond project, rather than 10 points for each.

There were just a few points of clarification. In terms of being self-scoring, it asks for certification or schedules of timelines. If I set forth a timeline, do I get the 4 points? I assume the timeline has to show the project completion by 2011, or whatever that date is. Is it just sufficient to set forth a timeline that shows that?

It doesn't really talk about any fees that will be charged. That would be nice to know.

It doesn't set forth any criteria for differentiating between receipt of 1602 funds and TCAP funds. That would be nice to know ahead of time because, for example, we are signing other funding commitments in the meantime, and we need to know whether or not to sign those as a partnership or LLC or as the sponsor. It would be nice to know that ahead of time.

It would be nice to know whether or not you have to pay Davis Bacon ahead of time, although as a practical matter what we are going to do is simply ask for bids with or without Davis Bacon. It means somewhat more work for the contractor, I suppose, but so be it.

There was one question I had on the general eligibility. There were 4 or 5 different criteria that were listed. I assumed that you have to meet all those criteria, but it didn't say that.

So, those are my comments. Thank you very much.

**Mariana Negoita:** It is 1:25 p.m. No one else is here to present comments. We will re-open the hearing if anyone else is interested to provide comments at that time.

It is now 3:00 p.m. We have had no further comment. I will now close the hearing.

Hearing concluded 3:00 p.m.