



## Tennessee Housing Development Agency

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### MEMORANDUM

TO: Recipients of TCAP Funding

FROM: Ed Yandell, Director of Multifamily Development  
Mike Clinard, Community Projects Manager  
Lynn Miller, Deputy Executive Director and General Counsel

DATE: August 24, 2009

SUBJECT: Environmental Reviews

Several issues arose as a result of information presented at the August 20, 2009 TCAP/Section 1602 Workshop held by THDA regarding compliance with the National Environmental Policy Act and related laws. The following addresses some of these issues, however, for more complete information, click on "HUD TCAP Recover Portal" in the column on the left side of the web page on which this memo is posted, then, under the heading "Questions and Answers", click on the heading titled "National Environmental Policy Act (NEPA) & Related Laws". Also, please consult with a knowledgeable professional about all environmental issues.

- The National Environmental Policy Act and related laws apply to TCAP funding. They do not apply to Section 1602 funding.
- THDA cannot commit TCAP funds to a TCAP eligible tax credit development before completion of the federal environmental review process and execution of the "Authority to Use Grant Funds" (HUD 7015.16) or equivalent letter. No agreement between THDA and an owner of a TCAP eligible tax credit development will be executed until the environmental review process is complete and the "Authority to Use Grant Funds" (HUD 7015.16) or equivalent letter is executed.
- The federal environmental laws, regulations and requirements apply to a TCAP eligible tax credit development as of the date of the owner's application for TCAP funding. This date is Friday, July 17, 2009, since this is the date THDA received applications from TCAP eligible tax credit development owners.
- From and after July 17, 2009, undertaking any "choice-limiting" activity with respect to a TCAP eligible tax credit development is prohibited until the environmental review process is complete and the "Authority to Use Grant Funds" (HUD 7015.16) or equivalent letter is executed.

- **Proceeding with any “choice-limiting” activity, including activities to be paid for from sources of funds other than TCAP (e.g. construction loan proceeds; syndication proceeds; bridge loan proceeds; proceeds from any other source of federal, state or local funding; proceeds from any other public or private source; owner capital contributions, etc.), before the environmental review process is complete and the “Authority to Use Grant Funds” (HUD 7015.16) or equivalent letter is executed may result in ineligibility for TCAP funding.**
- A tax credit development that fails to successfully complete the federal environmental review process and does not receive the “Authority to Use Grant Funds” (HUD 7015.16) or equivalent letter is not eligible for TCAP funding.
- Under the THDA TCAP Program Description, developments that are eligible for TCAP funding are not eligible for Section 1602 funding, therefore, ineligibility for TCAP funding due to failure to comply with federal environmental requirements also means ineligibility for Section 1602 funding.