April 21, 2009

To All Interested Parties:

RE: PROPOSED CHANGES TO THE QUALIFIED ALLOCATION PLAN
      FOR THE LOW INCOME HOUSING TAX CREDIT PROGRAM

On April 17, 2009 VHDA's Board of Commissioners authorized the release of proposed changes to the Qualified Allocation Plan ("QAP"). Attached for your review are copies of the proposed changes to the QAP and a summary of the competitive process of how TCAP funds and Credit Exchange funds will be awarded to 2009 applications applying for tax credits. A public hearing will be held on May 26, 2009 at 10:00 AM here at VHDA. The proposed changes to the QAP will be considered for approval at the June 3, 2009 Board of Commissioners meeting.

We received many helpful comments by email and at the forum on April 14 and as a result revised the proposed changes as follows:

1. The minimum DCR will be 1.15, minimum projected vacancy – 7% and minimum reserves of 6 months for operating expenses and debt service.
2. Developer fees will be limited to a cumulating declining scale of less than one million total development costs – 15%, 1 – 10 million – 12% and over 10 million – 8%.
3. A portion of the TCAP funds will be set aside for tax-exempt bond developments (15%) and for the non-competitive disability developments (6%). Tax-exempt bond developments will need to submit an application by the 5:00 PM May 15, 2009 deadline and compete for TCAP funds. TCAP funds must be distributed competitively so the competitive tax credit score of the next eligible development not funded in each geographic pool will establish a tier-1/tier-2 TCAP score for tax-exempt bond developments. All tax-exempt bond developments at or above this tier score will receive TCAP funds first in rank order to the extent TCAP funds are available. Then all tax-exempt bond developments below the tier score will be eligible for TCAP funds in rank order however awards to tax-exempt bond developments below the tier score will be made only at the discretion of the Board of Commissioners.
4. The date to close the syndication and transfer the property will be revised to a future date yet to be determined. There may be separate dates for Rural Development and HUD program properties due to additional time needed for ownership transfer approvals.

The 50-point penalty for Locality CEO Information will be waived for those applications that either have a 2007 or 2008 allocation of credits submitting an application for TCAP funds by May 15, 2009 or tax-exempt bond developments submitting an application for TCAP funds by May 15, 2009.

The 2009 application Excel spreadsheet has been updated and is now available on the VHDA website with new formulas for TCAP and exchange funds and the additional Developer fee limit. (See instructions below)

If you have any tax credit questions, please call me at (804) 343-5786 or email me at jim.chandler@vhda.com.

Sincerely,

James M. Chandler
Director of Low Income Housing
Tax Credit Programs

JMC/dlg
Enclosures

Proposal for use of Tax Credit Assistance Payments (TCAP) and Credit Monetization Funds

Each tax credit applicant may apply for both TCAP funds and Credit Monetization funds in the 2009 tax credit round. Applicants may structure their application assuming:

1. 40% of their tax credit request will be exchanged for $.85 per $1.00 of exchanged credits, and

2. up to $2.7535 of TCAP funds per $1.00 of requested tax credits is available to fill any gap in the financing of their proposed development.

Such funds would be made available to the development after the developer syndicates the development and 10% of the syndicator's funds are invested in the tax credit partnership.

Any 2007 and 2008 competitive tax credit developments that have not closed their tax credit syndication and wish to exchange their credit allocation have two options: (i) re-compete for tax credits in the 2009 round with access to TCAP funds, or (ii) request an exchange of their 2007 or 2008 allocations for credit monetization funds in an amount not to exceed the lesser of (x) $.85 per $1.00 of credit or (y) the tax credit equity amount shown in their allocation application. Any 2007 and 2008 competitive tax credit developments that have closed their tax credit syndication still have the option of re-competing for additional credits without applying for TCAP funds and Credit Monetization funds. Due to the unique nature of tax credit pricing in 2008, the reservation fee on any 2007 and 2008 competitive tax credit developments that re-compete in 2009 will only be assessed on any increase in the amount of credits reserved above the amount of credits already allocated to the applicant's development.

A portion of the TCAP funds will be set aside for tax-exempt bond developments (15%) and for the non-competitive disability developments (6%). Tax-exempt bond developments will need to submit an application by the 5:00 PM May 15, 2009 deadline and compete for TCAP funds. TCAP funds must be distributed competitively so the competitive tax credit score of the next eligible development not funded in each geographic pool will establish a tier-1/tier-2 TCAP score for tax-exempt bond developments. All tax-exempt bond developments at or above this tier score will receive TCAP funds first in rank order to the extent TCAP funds are available. Then all tax-exempt bond developments below the tier score will be eligible for TCAP funds in rank order however awards to tax-exempt bond developments below the tier score will be made only at the discretion of the Board of Commissioners.

Additional Terms:

Applicants requesting either TCAP funds or Credit Monetization funds must agree to:

1. comply with all applicable federal fund requirements, including, but (depending upon guidance from HUD and Treasury) not necessarily limited to

- Davis-Bacon wage standards,
- Environmental Reviews,
- Fair Housing and Non-discrimination,
- Uniform Relocation Assistance (if applicable), and

2. accomplish the following items by the date listed next to each item:

• Development is eligible for Zoning points	May 15, 2009
• Architect certifies Plans and Specifications, Working Drawings are 100% complete	March 1, 2010
• Building Permits issued by Local Government	May 31, 2010
• Start Construction	June 30, 2010
• Complete Construction	December 31, 2011

After the rankings are complete, VHDA will retain the ability to exchange Credit Monetization funds for TCAP funds and vice versa. VHDA will seek to retain syndicator interest in all the winning applications by substituting Credit Monetization funds with TCAP funds in the case of smaller developments, thus maximizing the credits available for purchase by syndicators for those developments. With larger developments, VHDA will substitute TCAP funds with more Credit Monetization funds reducing the credits available for syndication, but these developments will be left with enough tax credits to maintain investor interest. If a development does not have enough tax credits to draw any investor interest, such development may, at the option of the VHDA, be fully funded with TCAP funds or Credit Monetization funds. In such a case, the applicant will have to demonstrate, to the satisfaction of VHDA, a good faith effort to obtain investor interest in its development. VHDA will perform the asset monitoring functions normally associated with syndicators in any developments that cannot find an investor.

Any applicant for TCAP funds or Credit Monetization funds must submit an application that meets the following underwriting standards to ensure investor interest:

- Debt coverage ratio of at least 1.15:1
- Reserves of at least 6 months of operating expenses and debt service
- Vacancy rate of at least 7%

However, to counterbalance the increased cash flow from the stricter underwriting criteria and funded reserves, any applicant seeking these funds would have to agree to limit their **developer fee** to a cumulating declining scale of less than one million total development costs – 15%, 1 – 10 million – 12% and over 10 million – 8%.

In addition, the Credit Per Unit calculation in the Efficient Use of Resources point category will treat the TCAP funds being requested as if they are part of the credit amount being requested at $0.85 per credit. Therefore, the amount of TCAP funds being requested will have the same effect on scoring as the tax credits.

Any TCAP funds and Credit Monetization funds awarded to a proposed development shall be in the form of a grant or, if requested by the borrower, a loan to avoid taxable income to the partnership. Such grant or loan will (i) be subordinate to all other unrelated third-party financing on the development; (ii) be secured by a deed of trust for the full amount of the grant or loan during the compliance period; and (iii) provided no conditions exist that would put the development in default under the deed of trust, be forgiven by VHDA in part each year on a pro rata basis based upon the length of the extended use period. A financing fee will be assessed on any such grant or loan to cover VHDA's administrative costs in complying with the federal fund requirements.

13VAC10-180-120.   Application for Tax Credit Assistance Funds and Credit Exchange Funds.

The American Recovery and Reinvestment Act of 2009 (Recovery Act), PL 111-5, (i) includes funds to be allocated to housing credit agencies from HUD under a program called the tax credit assistance program (TCAP), to facilitate the production of developments awarded low-income housing tax credits in fiscal years 2007, 2008 and 2009, and (ii) permits the authority to monetize credits by exchanging eligible credits for cash grants, which can be used by the authority to finance the construction or acquisition and rehabilitation of qualified low-income buildings.

Application for TCAP funds and credit exchange funds shall be filed with the authority on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the Recovery Act, the IRC and this chapter and to make an award of TCAP funds or credit exchange funds in accordance with this chapter. The executive director may establish criteria and assumptions to be used by the applicant in the calculation of the amounts of tax credits, TCAP funds, and credit exchange funds in the application; and any such criteria and assumptions may be indicated on the application form or instructions made available by the authority to applicants. Each applicant for TCAP funds and credit exchange funds shall commit in the application to comply with all federal requirements applicable to such funds.

The executive director may divide the amount of TCAP funds into separate pools and each separate pool may be further divided into separate tiers. The division of such pools and tiers may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors deemed appropriate to best meet the housing needs of the Commonwealth. Proposed developments to be financed by certain tax-exempt bonds and eligible to receive credits pursuant to 13VAC10-180-100 that apply for TCAP funds will be scored and ranked pursuant to the requirements of 13VAC10-180-60 with all other applications applying for TCAP funds and credits. Such developments may be placed in pools with other applicants for TCAP funds or may be put in their own separate pool as the executive director deems appropriate.

For each application which may receive an award of tax credits and either TCAP funds or credit exchange funds or both, the executive director shall determine the amount, as of the date of the deadline for submission of applications for such funds, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. The executive director may substitute TCAP funds for some or all of the credit exchange funds in the application or credit exchange funds for some or all of the TCAP funds requested in the application in such amounts as determined by the executive director to maximize the number of developments or units that are expected to benefit from the equity provided by tax credit investors. Any TCAP funds and credit exchange funds awarded to a proposed development shall be in the form of a grant or, if requested by the borrower, a loan. Such grant or loan shall (i) be subordinate to all other unrelated third-party financing for the construction or acquisition and rehabilitation of the development; (ii) be secured by a deed of trust for the full amount of the grant or loan during the compliance period; and (iii) provided no conditions exist that would result in default under the deed of trust, be forgiven by the authority in part each year on a pro rata basis based upon the length of the extended use period.

Any tax credit developments that have received a reservation of tax credits pursuant to 13VAC10-180-60 in calendar years 2007 and 2008 may request the authority to exchange their tax credit allocation for credit exchange funds in an amount not to exceed the lesser of (i) $.85 per $1.00 of credit exchanged or (ii) the tax credit equity amount shown in their allocation application.

The executive director may place conditions and limitations on the availability and use of the grant or loan deemed necessary to comply with the provisions of the Recovery Act and the IRC. The executive director may also prescribe such deadlines for accomplishing certain milestones established by the executive director in the acquisition, construction or rehabilitation of the developments deemed necessary or desirable to ensure full use of TCAP funds and credit exchange funds within the timeframes established by the Recovery Act.

Instructions For Completing the 2009 Revised TCAP/Credit Exchange Application

The revised 2009 tax credit application incorporates the assumptions and formulas necessary to request funding and self-score your proposed development. Please refer to the following instructions when completing your application.

If you are requesting TCAP funds and/or Credit Exchange funds:

1. At the bottom of page 22 of the application there is a section in which the weighted average credit price is calculated. These formulas assume that 40% of the credit request will be exchanged at $0.85, and 60% will be syndicated at market price. Enter the market price you can reasonably expect to receive where indicated. Then enter the weighted average price in cell V37.

2. The amount of TCAP funding you are requesting should be entered into the application in two places:

 a. On page 21 of the application in Grants section in cell H42.

 b. On page 23 of the application in cell P25.

Keep in mind that there is a limit to the amount of TCAP funding you may request, which is $2.7535 per $1 of tax credit requested.

3. The maximum developer fee that can be requested when seeking TCAP or Exchange funds is calculated for you based on the total development cost, and is indicated on page 19 of the application in cell W41. If you are not seeking TCAP or Exchange funding then the standard developer fee limits apply.

4. On pages 2 and 26 of the tax credit application, enter the amount of your tax credit request as you typically would.

If you either i) have a 2007 or 2008 tax credit allocation and are submitting an application in 2009 for additional credits and are not seeking TCAP or Exchange funds, or ii) are submitting an application in 2009 with no prior allocation and are not seeking TCAP or Exchange funds, then fill out the application as you typically would without regard to the instructions above.

Note: If you have already filled out a 2009 tax credit application and would like VHDA to amend your existing application to include these changes, please email your application to Dale Wittie at dale.wittie@vhda.com. Feel free to call Dale at (804)343-5876 if you have any questions