

## **American Recovery and Reinvestment Act of 2009 Summary of Low-Income Housing Tax Credit Provisions**

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA) which included two funding sources for Low-Income Housing Tax Credit projects: the Tax Credit Assistance Program (TCAP) and the Credit Exchange Program.

The programs are very similar in that they can provide cash to fill funding gaps on eligible tax credit projects that may or may not have an equity investor. Both programs can be used to assist 9% projects and 4% tax credit / bond projects. Brief descriptions of the two programs are outlined below:

### TCAP Funds (HUD)

- Direct appropriation of \$43,010,192 from HUD to the WSHFC. This is Washington State's portion of the \$2.25 billion allocated to state HFA's based on the HOME formula.
- Eligible projects include those that have received an "award" of credits in federal fiscal years 2007, 2008 and 2009 (year ending September 30). An award may be either an allocation of 9% credit or a 42(m) letter for the 4% credit.
- Funds must be distributed to projects on a "competitive" basis.
- Strict timing requirements apply regarding allocation of funds to projects and spending of funds by project sponsors: Project sponsors must spend 75% of their awards by February 2011 and 100% by February 2012 or be subject to recapture.
- These funds do not reduce a project's eligible basis.
- These funds have been determined to be federal funds, but "not HOME funds." Projects utilizing TCAP funds will be subject to certain federal funds requirements including National Environmental Policy Act (NEPA) review, Davis-Bacon wage rates, the Uniform Relocation Act, all anti-discrimination and equal opportunity statutes, and others.
- WSHFC will be required to report to HUD on a quarterly basis on projects funded using TCAP funds, including estimates of the number of jobs created and/or retained by the project.
- WSHFC is required to perform or contract for "asset management" which is in addition to the compliance function currently required under the Tax Credit program.

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### Credit Exchange (Treasury)

- Legislation allows WSHFC to exchange up to 40% of its 2009 per capita authority and 100% of unused or returned credits for \$0.85 per \$1 of credit
- Legislation requires that projects show that a “good faith effort” was made to find an equity investor before they are eligible for Credit Exchange funds. WSHFC is required to establish a process to determine that “good faith effort” was made.
- These funds do not reduce a project’s eligible basis.
- Projects will be subject to LIHTC limitations on income, rent, use restrictions, etc.
- We have not yet received final guidance as to whether Credit Exchange funds will be considered “federal funds” and therefore subject to the federal funds requirements as described above for the TCAP Program.
- WSHFC is required to perform or contract for “asset management” which is in addition to the compliance function currently required under the Tax Credit program.

### **Additional Resources:**

Full Text of the ARRA Legislation (PDF, 13.4 MB)

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h1enr.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf)

- Division A, Title XII, HOME Investments Partnership Program (Pages 106-107)
- Division B, Sections 1404 & 1602 (Pages 238, 248-250)

HUD’s Tax Credit Assistance Program Website

<http://www.hud.gov/recovery/tax-credit.cfm>

Federal Recovery Website

[www.recovery.gov](http://www.recovery.gov)

Washington State Recovery Website

<http://recovery.wa.gov/>

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