we do so you can.

WISCONSIN HOUSING & ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: WISCONSIN LOW-INCOME HOUSING TAX CREDIT PROGRAM PARTICIPANTS

FROM: WHEDA Multifamily Housing Group

DATE: March 10, 2009

RE: 2009 American Recovery and Reinvestment Act (ARRA)

On February 17, 2009 President Obama signed into law H.R. 1, the American Recovery and Reinvestment Act (ARRA). The new law includes enhancements to benefit the Low-Income Housing Tax Credit program. WHEDA is inviting public comment on its anticipated policies and actions regarding the recently passed law. Comments should be sent to Bill.Boerigter@wheda.com or Bill Boerigter, Multifamily Manager, WHEDA, P.O. Box 1728, Madison, WI 53701, no later than Tuesday, March 17, 2009.

WHEDA continues to wait to receive further guidance from both HUD and the Treasury regarding the use of the resources outlined in the ARRA. We will continue to seek answers from both agencies and we will post any additional information to our website as it becomes available.

BACKGROUND

Two specific provisions of the ARRA directly impact on the LIHTC program; 1) the availability of Tax Credit Assistance Program funds (TCAP), and, 2) the ability of the state's tax credit allocating agency to exchange all or a portion of the 2008 and 2009 tax credit authority with the Treasury for $.85 per credit, times 10.

WHAT WE KNOW

TCAP funds: $2.25 billion of TCAP funding was approved in the ARRA. The funds are being disbursed by HUD to the states utilizing the existing formula allocation currently associated with HOME funding. The funds will be disbursed directly to the states' tax credit allocating agencies. WHEDA anticipates receiving $35,594,904. The funding must be allocated to WHEDA by the end of HUD's fiscal year, September 30, 2009.

TCAP funds are to be used to help fill existing financing gaps that may exist in proposed developments from the 2007, 2008 or 2009 LIHTC rounds. They are intended to enhance development strength and encourage investment from traditional syndicator and investor arrangements.

At this time is appears that TCAP funds can only be distributed "to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under section 42(h) of the Internal Revenue Code of 1986." TCAP funds cannot be used with developments that received, or may receive, an allocation of Midwest Disaster Area (MDA) credits. WHEDA is unclear if this was Congress' intent and we are diligently working to receive clarification.

TCAP funds are not HOME funds. This funding source however, is expected to have various federal funding requirements including environmental review, lead-based paint, fair housing, Section 504, Uniform Relocation Act and Davis-Bacon compliance. Otherwise, the developments must comply with existing Section 42 guidelines including set-asides, income guidelines and rent restrictions.

Buy-Back Provision: The states' tax credit allocating agencies are authorized to exchange up to 100% of any unused 2008 per capita credits and up to 40% of the 2009 credit allocations. Similar to restrictions in the TCAP funding, Midwest Disaster Credits cannot be exchanged. WHEDA therefore, could exchange 100% of our unused 2008 credits - $8.4 million – and up to 40% of the 2009 credits - $5.1 million. The value of that exchange would be $114 million. The funds can be used to fill existing financing gaps or to allow developments that cannot find traditional tax credit equity the ability to be completely funded with a direct grant.

We do not believe that the various federal funding requirements (i.e., Davis-Bacon compliance) apply to exchange funds but we have not received full guidance from the Treasury.

Participants should be aware that any exchange funds WHEDA requests will reduce the total available tax credit pool outlined in the 2009 QAP.

WHEDA ANTICIPATED ARRA ACTIONS

WHEDA staff will work collaboratively with LIHTC awardees to enable developments to move forward to closing and completion. WHEDA's goal is to leverage ARRA resources to bring as many "shovel ready", financially feasible LIHTC developments to closure, as soon as possible. WHEDA is required to award these funds competitively. We anticipate the criteria will incorporate both Qualified Allocation Plan (QAP) criteria including set-asides and scoring, as well as readiness-to-proceed criteria.

WHEDA intends to first offer gap financing options to leverage resources, enhance development strength and encourage continued investment from new and traditional syndicator and investor arrangements. To that end, all applicants will be first offered a gap financing option.

Grants will be used to fill financing gaps created by reducing permanent loans or credit price slippage. Grants will be sized to increase permanent debt coverage ratios to 1.25 and/or absorb depressed credit prices to a floor of $.60. Participants will be required to assume all federal funding requirements as mentioned above (i.e., Davis-Bacon compliance) will be enforced and must provide a revised sources and uses statement clearly indicating the additional funds estimated for inclusion. Participants should work closely with their assigned WHEDA Senior Underwriter.

Developments with unclosed LIHTC allocations from 2007 and 2008 will have first priority. WHEDA will provide specific guidance on our website relating to selection/priority criteria, term sheet and process once final guidance has been published. WHEDA WILL NOT ACCEPT ANY APPLICATIONS FOR FUNDING UNTIL FINAL GUIDANCE HAS BEEN PUBLISHED BY HUD AND TREASURY.

WHEDA may allow developments which cannot find traditional tax credit equity the ability to be funded with a direct grant from WHEDA's exchange credit proceeds. However, participants must be able to demonstrate to WHEDA's satisfaction that they are unable to secure a traditional LIHTC investor, even with WHEDA's gap financing. WHEDA will provide guidance for applying for direct grants on an individual basis, after it has determined that the traditional LIHTC cannot be deployed. Direct grants will be sized to the most recent credit application's stated equity need, subject to increases deemed necessary to comply with all federal funding requirements previously referenced.

Developments receiving direct grants will be required to execute a Regulatory Agreement. Restrictions are expected to include, but not limited to:

- Staged developer fee payment (25% at closing, 50% at permanent loan/conversion, 25% at year 5
- Cash flow split of 50/50
- Sponsor guarantees
- Twelve month reserve to be held by WHEDA
- Residual sale restrictions
- Modified Land Use Restriction Agreement
- Project scope, commitments and certifications of most recent credit application will apply

Please continue to monitor WHEDA's website for further updates as they become available. Questions or comments concerning any of the above are encouraged. Please send them no later than Tuesday, March 17, 2009 to Bill.Boerigter@wheda.com or Bill Boerigter, Multifamily Manager, WHEDA, P.O. Box 1728, Madison, WI 53701.