



# Housing Advisory Group



## Questions on the Exchange Proposal

We have been receiving quite a few questions from members of the HAG and other interested parties regarding the LIHTC exchange proposal which recently passed as part of the American Recovery and Reinvestment Act of 2009 (ARRA).

Specific questions center on the amount of equity developers can expect to receive from state allocating agencies for either returned credits or a new allocation. The legislation specifies that a state may receive a housing grant that equals 85 percent times 10 of: 100 percent of 2008 unused or returned credits and, up to 40 percent of the State housing credit ceiling for 2009.

The confusion seems to be in regards to what developers of LIHTC properties are entitled to under this program, many wondering “when do I get my \$.85?” The fact is the state allocating agencies will determine in what fashion and how much equity they will distribute to qualifying LIHTC projects, there being no set equity price per the legislation.

As Beth Mullen of the Reznick Group, P.C. stated, “The exchange must go through the state tax credit agency so each state will be coming up with a different process. If a project has a 2008 allocation and no investor, it is likely that the state will allow credits to be returned. The state can then convert 100% of the returned credits ( $\times 10 \times .85$ ) into cash. That does not mean that the project that turned in the credits will automatically get \$.85 for the credits that they would have had. I think that states will try to come up with a way for the developer to sell the credits at the current market price and then the gap will be made up with an “exchange” loan. Again each state is working through this right now.”

The legislation also states that State housing agencies may collect reasonable fees for compliance and asset management which could be charged against the “grant” amount.

In short, there are questions yet to be answered with regard to the exchange proposal so we caution all parties from assuming specific equity pricing will be forthcoming.

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