



Guidance on TCAP and LIHTC Exchange Programs

The Department of Treasury and the Department of Housing and Urban Development yesterday released guidance on the application process for the LIHTC Exchange and Tax Credit Assistance Programs (TCAP).

President Obama signed the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) earlier this year, which appropriated \$2.25 billion for a grant program (under the HOME Investments Partnership Program heading) to provide funds for capital investments in LIHTC projects (the Tax Credit Assistance Program, or TCAP), and appropriated funds for grants to state housing credit agencies to finance construction or acquisition and rehabilitation of qualified low-income buildings for low-income housing in lieu of LIHTCs (the Tax Credit Exchange Program).

Under the Tax Credit Assistance Program, HUD will award TCAP grants by formula to state housing credit agencies to facilitate the development of projects that received or will receive LIHTC awards between October 1, 2006 and September 30, 2009. The TCAP guidance issued by HUD sets forth the submission requirements, eligible uses of funds and program requirements for TCAP. The notice also states that HUD will issue, as it becomes available, supplemental and interpretive guidance, including the process for disbursing funds, recordkeeping, reporting and applicable federal grant requirements.

The notice states that TCAP funds are federal financial assistance and, therefore, are subject to requirements applicable to such funds. As such grantees of the funds must comply with the applicable requirements for federal financial assistance, including the Davis-Bacon prevailing wages requirement. Further, the notice provides that although the TCAP funds were appropriated under the HOME Program heading of the American Recovery and Reinvestment Act, HOME statutory and regulatory requirements do not apply to TCAP funds, with the exception of environmental review requirements.

For further details, the HUD notice can be accessed by clicking [here](#).

The Treasury Department released guidance on the Tax Credit Exchange Program by way of an application package, application form and certain other documents necessary for state housing credit agencies to apply to receive grant money in lieu of LIHTCs for 2009. Applications may be submitted by state housing credit agencies during the May-June 2009 period, with subsequent applications submitted through 2010. The state housing agencies may use the funds to make subawards through December 31, 2010. Any grant funds not used to make subawards before January 1, 2011 must be returned to the Treasury on January 1, 2011.

Consistent with a Treasury Department letter released last week, the application package states that credits allocated pursuant to the Gulf Opportunity Zone (GO Zone) Act and the Midwestern and Hurricane Ike Disaster Areas are not eligible for exchange under the program.

For further information on the Tax Credit Exchange Program, you can access the application information by clicking [here](#).

It was also announced that on Wednesday, May 6 at 2:00 p.m. EST, HUD and the Department of Treasury will be conducting a joint [webcast](#) on TCAP and the Grants in Lieu of Tax Credits Program.

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