

## Tax Credit Exchange Program

Funding from ARRA

### For More Information

Mariana Negoita, Program Manager

Ph: (503) 986-0968

Email: Mariana.Negoita@hcs.state.or.us

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### Program Overview

The Tax Credit Exchange Program allows State Housing Finance Agencies (OHCS in Oregon) the option of turning in unused and returned 2008 Low-Income Housing Tax Credits (LIHTC) for grant funds. The program also allows OHCS to turn in to the IRS up to 40 percent of the 2009 LIHTC credits for grant funds.

The funds are provided to coordinate with the LIHTC program to fill financing gaps caused by the collapse of the tax credit market and to jumpstart stalled housing development projects, thereby creating jobs.

### ARRA Funding

ARRA funding provided through this program will depend on the amount of federal housing credits exchanged by OHCS – and any credits awarded from the national pool.

OHCS is in the process of determining the optimal amount of credits to exchange under this program.

### Eligibility

Tax Credit Exchange funds are intended for affordable housing projects using federal housing tax credits. The funding can be used for affordable housing projects where federal housing tax credits have been allocated, as well as for other similar projects. The funding may be used on new construction and rehabilitation projects.

### Other Requirements/Criteria

- The Secretary of the Treasury shall make a grant to the housing credit agency of each State in an amount elected by the State which does not exceed 85 percent of (a) all unallocated 2008 housing credits and all housing credits returned to the agency in 2009 PLUS (b) 40 percent of the state housing credit allocation for 2009, multiplied by 10;
- A state shall use such grant to make subawards to finance the construction or acquisition and rehabilitation of qualified low-income buildings with or without a LIHTC allocation, except that a qualified low-income building without an allocation may receive a subaward only if such use will increase the total funds available to the state to build and rehabilitate affordable housing. Applicants are required to demonstrate good faith efforts to obtain investment commitments for such credits before the agency makes such subawards;

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- Subawards are subject to the same requirements as housing credit allocations (including rent, income, and use restrictions);
- The state housing credit agency shall perform or contract for asset management functions to ensure compliance with LIHTC requirements and the long-term viability of buildings. The state housing credit agency may collect reasonable fees from a subaward recipient to cover associated expenses;
- The state housing credit agency shall impose conditions or restrictions, including a requirement providing for recapture, on any subaward so as to assure that the building remains a qualified low-income building during the compliance period. Any such recapture shall be payable to the Secretary of the Treasury for deposit in the general fund of the Treasury and may be enforced by means of liens or such other methods as the Secretary of the Treasury determines appropriate;
- Any grant funds not used to make subawards under this section before January 1, 2011, shall be returned to the Secretary of the Treasury on such date. Any subawards returned to the state housing credit agency on or after such date shall be promptly returned to the Secretary of the Treasury and deposited in the general fund of the Treasury.

More information on the Tax Credit Exchange Program will be posted on this webpage when it becomes available. (See also the information on the OHCS ARRA webpage about the Tax Credit Assistance Program.)

### Implementation Process/Steps

Currently, at the state level, there are many unanswered questions about the mechanics of administrating this funding, identifying policy parameters and long term compliance. Further, ARRA requires states to “establish a process in which applicants for the sub-awards [relating to the exchange provision] must demonstrate good faith efforts to obtain investment commitments before the agency makes such sub-awards.”

While OHCS staff is working to identify answers and solutions, the best direction we can impart to our partners is to continue to seek equity for projects currently in the pipeline, at every stage of development.

We encourage developers to proceed with their plans and, as possible, not delay equity closings due to the passing of this legislation. The strength and future success of the LIHTC program remains in the public-private partnership commitment that has to date ensured its achievements.

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As we become better informed about this legislation, we will provide information through our website, email list or recently-developed electronic mailing list. We welcome input from our partners and look forward to working with them to find the best solutions this legislation provides for the development of affordable housing in Oregon.

### Additional Tax Credit Exchange Program information:

- It is expected that exchange funds will be available to states beginning 3<sup>rd</sup> quarter 2009.
- Exchange funds are to be spent by January 1, 2012.
- It is expected that states will need to apply for exchange funds by the end of 2009.

*Last updated 4/10/09*

OHCS is the state housing finance agency, providing financial and program support to create and preserve opportunities for quality, affordable housing for lower income Oregonians. The agency also administers federal and state antipoverty, homeless and energy assistance community service programs.

