

## NYS Housing Finance Agency

### Description of Competitive Selection Process

1. Consistent with requirements of the American Recovery and Reinvestment Act of 2009, to receive consideration for TCAP funds, projects will have to be rental projects that have received or will receive an award from NYSHFA of 4%, “as of right”, LIHTC under Section 42(h) of the Internal Revenue Code of 1986, as amended, (IRC) (26 U.S.C. 42), during the period from October 1, 2006 to September 30, 2009 (federal fiscal years 2007, 2008 or 2009), require additional funding to be completed and be placed into service in accordance with the requirements of Section 42 of the IRC. NYSHFA anticipates it will begin considering projects for TCAP funds immediately upon availability of such funds. Evaluations will be based on the private activity bond and “as of right” LIHTC applications that have already been submitted. Upon selection by staff of eligible applications, NYSHFA’s governing board, (the “NYSHFA Members”), will authorize such award in connection with their authorization of qualified multifamily housing tax-exempt private activity bond financing and “as of right” LIHTCs. Members meetings occur approximately monthly.
2. An award of LIHTC is defined as the date NYSHFA sends a letter announcing that the project will receive LIHTC.
3. LIHTCs generated from the issuance of qualified multifamily housing tax-exempt private activity bonds do not count against the state’s per capita cap for LIHTC pursuant to §42(h)(4) of the Internal Revenue Code. Pursuant to §42(m) such “as of right” tax credits can only be allowed to a project if the project meets the requirements of the relevant QAP. A project meets the requirements of the NYSHFA’s QAP if it meets the threshold criteria contained in §2188.5 of the QAP.
4. Projects considered for TCAP funding will be reviewed for basic eligibility as described in HUD Notice CPD-09-03. Those projects that meet basic eligibility criteria will be considered according to the TCAP funding criteria described below. The main selection criterion used in considering applications for TCAP funds will be NYSHFA’s judgment that a project has the ability to and will be completed within 3 years from the date of Recovery Act enactment (i.e. by February 16, 2012). In making such a determination of readiness, the following factors will be considered:
  - a. **Funding Commitments** — The extent to which all other funding commitments have been obtained.
  - b. **Local Approvals** — The extent to which all approvals necessary to start construction have been obtained, including but not limited to rezoning, the granting of variances, the availability of water and sewer services to the project, subdivision approval, and project tax abatement approval.

- c **Environmental Approvals** — The extent to which all necessary environmental approvals have been obtained.
  - d **Site Control** — The extent to which site control for the project has been secured for privately owned sites.
  - e **Development Team Capacity** — The extent to which the project development team’s track record in completing prior LIHTC projects demonstrates the capacity necessary to complete the project within the eligible time period.
  - f **Status of Construction Documents** — The extent to which the project has finalized plans and specifications, general contractor’s contract and other construction-related documents.
5. Other selection criteria will include: 1) that the project has demonstrated, by the date NYSHFA considers applications for TCAP funding, that the project has the ability to pay Davis-Bacon wages going forward; 2) that the project serves a predominately low-income tenant population; and, 3) that the project meets and will further the Agency’s housing goals which include preserving the State’s investment in necessary affordable housing by preserving Mitchell-Lama projects, creating new supportive housing units, and creating or preserving affordable units in the geographic areas most impacted by the changes in the tax credit equity market.
  6. At a public meeting, the NYSHFA Members will consider all projects selected by Agency staff for TCAP Funding.
  7. The NYSHFA Members may authorize TCAP Funding for projects until all projects to be considered for TCAP Funding have been considered or until no additional TCAP Funding is available.
  8. NYSHFA will ensure that all “cross-cutting” Federal requirements applicable to TCAP are met before any binding written agreement to commit TCAP Funding (“Written Agreement”) is executed including but not limited to those that may be imposed by prevailing wage laws and regulations, fair housing requirements, Section 504 of the Rehabilitation Act, Lead Safe Housing Rules and Federal environmental requirements contained in the National Environmental Policy Act (“NEPA”) and related laws. No Written Agreement will be executed until the project has completed all requirements for review in these areas.