



**Ohio Housing Finance Agency**  
**ARRA Application Procedures & Underwriting Guidelines**  
for the 2009 housing tax credit projects



**OHIO HOUSING FINANCE AGENCY  
2009 HOUSING TAX CREDIT  
ARRA APPLICATION PROCEDURES & UNDERWRITING GUIDELINES**

The American Recovery and Reinvestment Act of 2009 (ARRA) provides states with two programs to offset declining investor interest for Housing Tax Credits (HTC). Both the Tax Credit Assistance Program (TCAP) and the Tax Credit Exchange Program (TCE) are additional funding for projects that received an award of Housing Tax Credits in the 2007, 2008, or 2009 federal fiscal years.

These funds are to be used by the Ohio Housing Finance Agency (OHFA) to facilitate and expedite where appropriate, the financing of the construction or acquisition and rehabilitation of qualified (under Section 42 of the Internal Revenue Code (IRC)) low-income developments. Both of these temporary new programs are designed to provide economic stimulus and facilitate the development of housing projects as quickly as possible.

All applications for OHFA's American Recovery and Reinvestment Act (ARRA) and NSP funding must also have a corresponding expression of interest in applying for recovery funds on the State of Ohio Federal Stimulus Initiative website at <http://www.recovery.ohio.gov/opportunities/state/>.

**I. INTRODUCTION**

OHFA will follow the ARRA's overall purpose of stimulating the economy and saving or creating jobs in the near term by prioritizing projects by their Readiness to Proceed. In implementing and distributing these funds, OHFA will balance the Agency Policy Goals:

- Support and enhance the public-private investment partnerships.
- Achieve policy goals in the Qualified Allocation Plan (QAP) and OHFA Annual Plan.
- Efficiently allocate all resources to projects likely to succeed.
- Give priority to projects that produce immediate stimulus.
- Limit administrative burden for owners, unless necessary.

For purposes of prioritizing projects, OHFA will separate eligible projects into two (2) categories as defined below and within this application as follows:

**Category 1 Project:** Those projects that will utilize an investor / equity provider.

**Category 2 Project:** Those projects where OHFA is being asked to act as the sole or primary equity provider.

For all 2009 HTC projects or projects that have a Section 42 M Letter, with reservation letters dated prior to September 30, 2009, OHFA has established ARRA Stimulus funding priorities as follows:

1. Projects awarded competitive HTC in 2007 or 2008 which have not yet closed with their investor / equity provider and (ii) projects awarded competitive HTC in 2007 or 2008 that are unable to find or secure an equity provider and (iii) projects that have received a Letter of Eligibility for non-competitive (i.e. multifamily bond projects) up to \$10 million in TCAP allocation.
2. Projects that receive a reservation of competitive HTC in 2009 and have an opportunity to find an equity provider at a reasonable market tax credit price.
3. Projects that have received a Letter of Eligibility for non-competitive (i.e. multifamily bond projects) HTC in 2007, 2008 or 2009 (above initial \$10MM TCAP

allocation noted in Number 1 above) and have not yet closed on the bonds or with their equity provider prior to July 22, 2009.

4. Projects that rank high in the 2009 competitive HTC funding round but do not receive credits, achieve policy goals for OHFA, and are feasible without HTC.
5. Additional projects awarded non-competitive (i.e. multifamily bond projects) HTC in 2009 and have not yet closed on the bonds or with their equity provider before July 22, 2009 or were not funded with ARRA funds during first funding window for multifamily bond projects.
6. Additional funds for 2009 competitive HTC projects that are unable to find or secure equity providers and projects that receive competitive HTC in 2010.

## **II. EVALUATION CRITERIA AND PROCESS**

### **A. THRESHOLD ELIGIBILITY AND UNDERWRITING CRITERIA**

1. Projects must follow the U.S. Department of Housing and Urban Development CPD-09-03 issued May 4, 2009 and Section 1602 of the American Recovery and Reinvestment Tax Act of 2009 (Section 1602).
2. A Project will qualify if it has received a carryover allocation from the 2009 Competitive 9% Housing Credit Process and has not closed their equity, bank financing, or Multifamily Bonds. To receive TCAP, TCE, or NSP funds, projects must receive an award reservation of HTC or Section 42 M Letter no later than September 30, 2009.
3. In order to be eligible for TCAP or NSP funding, owners must not undertake any choice-limiting activity prior to successful completion of the environmental clearance review (i.e., HUD approval of the Request for Release of Funds). This prohibition begins the date of application for ARRA funds and includes disposition of real property and any activity that will result in a physical change to the property including demolition, movement, rehabilitation, conversion, repair, or construction. Performing a choice-limiting action prior to successful completion of the environmental clearance review may disqualify a project from receiving any federal funds, including TCAP or NSP funds. OHFA will provide additional guidance regarding acquisition and leasing activity.
4. In the event that the project is unable to receive a favorable Underwriting recommendation from the ARRA Underwriting Team, the Applicant will be notified of the deficiencies and given 3 days to respond. In OHFA's sole discretion, the project will be required to return all allocations of HTC, HDAP, NSP, TCAP, TCE, and any other sources as may be applicable to OHFA within five (5) business days of notification.
5. OHFA will accept Applications from all 2009 HTC projects that have received preliminary ranking for review and underwriting to be performed by the ARRA Underwriting Team in three (3) Steps as defined below. An Applicant must submit ALL information requested and meet the new underwriting criteria. **DO NOT** submit an application for any Step to request TCE, NSP, or TCAP money from OHFA until all material in that particular Step are complete as requested. Only applications that demonstrate and meet the established Performance Standards and Readiness to Proceed within each Step of the submission process will receive an invitation to the next Step and a commitment of ARRA / NSP funding. A project that is not invited to proceed will lose all funding conditional funding allocations.
6. Closing timelines will be set for each project during **Step I and updated in Step II and Step III.** Upon notification of a projects HTC ranking and verification of Site Control, an Environmental Review firm will be assigned.

The Ohio Department of Development or OHFA will begin to process all required notifications. Once the Environmental Review Clearance Record is in final form and a Final Underwriting Report is released, the Applicant must commit to close ALL funding sources within the established timeline, or within the dates set forth below. Expenditures of all TCE funds must be a priority and will be structured in all projects as the first source of money to be allocated and spent unless new guidance from the IRS sets forth changes in expenditure timelines. All Category 2 Projects will be subject to more stringent underwriting, closing timelines, and guidelines where OHFA is being asked to act as the sole or primary investor and may apply as described below

7. Readiness to Proceed is defined as a project that has completed the requested documentation and due diligence in each Step, meets all design criteria set forth in the 2009 HTC Application, maintains all established timelines, and can close HTC (if applicable), TCAP, TCE and /or NSP funding agreements by **April 30, 2010**. For all projects that meet all deadlines established, OHFA will use its best efforts and commit to close the ARRA funding, subject to approval by the ARRA Underwriting Team and OHFA Board as outlined in this document and Addendum. Projects that consistently do not meet the Performance Standards established in the timelines and are unable to provide satisfactory proof of their ability and Readiness to Proceed, will be at risk of losing their commitment of HTC, ARRA and / or NSP funds.
- B. All projects must meet the following underwriting requirements:
1. Submission by the General Partner(s) (GP) of an updated version of the 2009 Affordable Housing Funding Application (AHFA) to be provided by OHFA. The minimum acceptable Debt Service Coverage (DSC) is 1.20 for the first year of stabilized operations. In addition, permanent debt is to be sized such that a minimum 1.0 Annual Debt Service Coverage is maintained through Year 10 of stabilized operations.
  2. Cumulative Cash Flow Deficits that occur as a result of DSC below 1.0 in the remaining years (after Year 10) will be required to be added to the Minimum Established Operating Deficit Reserves.
  3. Initial operating Deficit Reserves will be calculated at a minimum of 6 months of Operating Expenses, Replacement Reserves, and Hard Debt Service. In the event that a project cannot find an investor, Operating Deficit Reserves will be established by OHFA on a project by project basis, with the basic guideline defined in the Addendum.
  4. OHFA will accept Operating Deficit Guarantees negotiated by the GP with the equity provider / investor(s). *A copy of those guarantees must be provided to OHFA for the file.* In the event that a project cannot find an investor, Operating Deficits Guarantees will be established on a project by project basis as partially defined in the attached Addendum.
  5. Income and expense inflators will be established at 1% income and 4% expenses from construction start through Stabilized Operations (year 1-3) for purposes of ARRA Team Underwriting. Income and expense inflators will be 2% income and 3% expense growth after Stabilization (beginning year 4) through the Compliance Period (year 15). For projects in which there will be an equity provider/ investor, *a copy of the definition of Stabilized Operations in the Limited Partnership Agreement must be provided to OHFA for the file*
  6. A lease-up / marketing reserve shall be established in an amount as required by OHFA and equivalent to funding necessary to demonstrate break even during the lease up / construction period.
  7. For Category 2 Projects, as required by Section 1602, attach a narrative describing the steps taken to secure an equity investment describing issues inhibiting investor interest in the project. OHFA will look for

evidence that the applicant has made an exhaustive effort to obtain an equity investor. The narrative must identify potential investors proffering unacceptable offers, and why specific terms and conditions were detrimental to the project's feasibility. OHFA reserves the right to corroborate presented facts, and may request additional information from the applicant and/or the potential equity provider/ investor. OHFA shall determine whether an applicant has met the federal good faith effort test. **ANY MISREPRESENTATION BY APPLICANT SHALL DRAW MAXIMUM PENALTIES UNDER PROGRAM REGULATIONS.**

8. Provide copies of the 2007 and 2008 audited or compiled financials from all the General Partners (and / or parent organizations if applicable) and / or Guarantor(s) in the Step II Application.
9. Provide a list of all contingent liabilities for all of the General Partners (and / or parent organizations if applicable) and / or Guarantor(s) in the Step II Application.
10. For Category 2 Projects, a detailed closing check list will be used to establish critical Performance Standards that must be met. The detailed check list will be posted by **July 17, 2009**.
11. OHFA HDAP will be underwritten on a case by case basis with a minimum "hard" principal and interest payment.
12. Other applicable details listed in the Addendum.

### **III APPLICATION STEPS, DEADLINES, RULES AND REQUIREMENTS**

Upon OHFA notifying a project of its preliminary 2009 HTC project eligibility, scoring, and ranking, an Environmental Review Firm will be assigned by OHFA or ODOD. OHFA staff may initiate the Part 58 NEPA process required for all 2009 HTC projects contemplating using TCAP, TCE, or NSP funds.)

Only 2009 HTC projects contemplating utilizing ARRA (TCAP or TCE) or NSP funds must submit a Step I Application). The **Step I** application window will open at **8:00 AM on July 13, 2009** and close at **5:00 PM on July 17, 2009** (the "**ARRA Step I Application Window**").

The ARRA Underwriting Team will review each project that requests ARRA or NSP funds in three (3) steps.

**Step I Application is due at 5:00 PM on July 17, 2009.** OHFA and the ARRA Underwriting team, by August 19, 2009, will review initial project feasibility; review additional materials submitted; provide an initial Draft Underwriting Report; set project Performance Standards; issue an updated HTC Reservation; and issue a Conditional ARRA / NSP Fund Commitment(s) approved by the OHFA Board.;

**Step II Application is due on the 60th day no later than 5:00 PM from the date of OHFA invitation letter to proceed to Step II.** Within twenty (20) business days from receipt of the Step II Application, the ARRA Underwriting team will do a second review of project feasibility; review due diligence materials; review the project changes; update the Draft Underwriting report (if necessary); review Performance Standards; timeline; Readiness to Proceed criteria; and issue an invitation to the Step III Application;

**Step III Application is due on the 60th day from the date of OHFA invitation letter to proceed to Step III.** Within twenty (20) business days from receipt of the Step III Application, OHFA will take a third and final look at project feasibility; review the project timeline; project changes; due diligence materials submitted; and Performance Standards. Upon favorable re-underwriting, OHFA will provide the Final ARRA Underwriting Report recommendations, issue firm ARRA / NSP funding

Commitments, obtain OHFA Board approval, and set the document closing date and construction start dates.

After completion of the Step III Application and receipt of the Final ARRA Underwriting Report and OHFA Board final approval in March of 2010, Category 2 Projects will be required to start construction no later than **April 30, 2010**; Category 1, preservation, NSP, and single family scatter site lease purchase projects will be required to start construction no later than **June 1, 2010**. The earlier deadline applies to any project with TCE funds regardless of project type, unless further guidance is provided from the IRS extending the December 31, 2010 expenditure rules applicable in Section 1602. No extensions to these dates are permitted due to the nature of the funding sources, Federal Readiness to Proceed requirements, and OHFA Policy goals.

If a project does not submit a Step I application by July 17, 2009, OHFA will issue the binding tax credit reservation letter and the project **IS NOT** eligible to receive an allocation of ARRA / NSP funds

Both Category 1 and 2 Projects will follow the same steps to receive the Final Underwriting Report from the ARRA Underwriting Team. If a project is designated as a Category 2 Project, a meeting must be set at OHFA to review this request, the detailed timeline, and establish the Performance Standards. Underwriting differences between a Category 1 and 2 Project have been defined above, as well as in the Addendum, as additional conditions reflected in the ARRA,, final Funding Commitments, and in the Draft and Final Underwriting Reports.

Once a Draft or Final Underwriting report is issued the Applicant will have three (3) business days to submit comments to the ARRA Underwriting Team. All comments will be reviewed, vetted, and discussed. The ARRA Underwriting Team will have five (5) business days to make any changes to the report, submit to the ARRA Committee (if necessary), and make final changes to OHFA Commitment(s) of ARRA / NSP Funds..

Performance Standards will incorporate timeframes set forth in the detailed timeline. In the event a project materially varies from the timeline and schedule, OHFA may in its sole discretion accept the adjustments or rescind all OHFA commitments. Performance Standards to achieve ER approval, obtain building permits, and secure both debt and equity investor commitments will be evaluated.

#### A. Step I Application Submission

This is the first step in the review process to determine projects Readiness to Proceed; have the highest likelihood to attract equity providers/investors; and commit to begin construction as noted above. Please submit the following on CD disc by **5:00 PM on July 17, 2009**:

- ~~1. The Application Fee is \$1,000. It is a non-refundable Fee and required at Step I Application along with 50% of the Category I underwriting fee. These fees are not eligible to be paid from TCAP proceeds.~~
2. An updated 2009 AHFA and detailed narrative which highlight ALL project changes from 2009 HTC Application to the Step I Application date is required including but not limited to explanations of changes in the financing structure, costs, and operating expenses. For tax credit equity calculations, OHFA will utilize **\$0.60** unless other equity provider / investor commitments are provided.
3. Provide a detailed project operating budget. The AHFA operating budget will not meet this requirement. For a rehab project, provide the last 3 years of audited financial statements for the Operating entity to validate the operating expenses proposed in the 2009 Updated AHFA.
4. For a new construction project, provide an analysis of the estimated property tax number used in the operating expense number. For an existing rehab project, provide a copy of the last 2 years tax bills.

5. Provide an estimated, detailed project schedule and timeline from construction / renovation start to stabilized lease up. Include the cost and percent complete targets for architectural, civil engineering, ER Clearance, topo and ALTA survey, at a minimum. Use August 1, 2009 for the start date of the Environmental Reviews and project worse case 5.5 months from this date for 100% completion for lease purchase projects use the Step II Application submission date as the start date of the Environmental review and add worse case 5.5 months to complete.
6. Anticipated outcomes of Step I Application:
  - a. Re-underwrite and set the appropriate 2009 HTC credit, ARRA / NSP amounts
  - b. Set project Performance Standards to measure GP's commitment to meet the Federal Readiness to Proceed and OHFA Policy objectives.
  - c. Allow OHFA ample time to preserve all ARRA / NSP funding allocation and expenditure requirements.

#### B. Step II Application Submission

Step II Application submission is for those projects invited by OHFA to proceed. Please provide all of the documents listed below at the time of Step II ARRA Application submission. Step II application information must be submitted within 60 days of invitation letter from OHFA. Please **DO NOT** submit an ARRA Application if the project's Readiness to Proceed cannot be verified or is not supported by documentation submitted. If any of the items below are not submitted, the application will be rejected and may be asked by OHFA to return all funds committed. OHFA and ARRA Underwriting team reserve the right to request additional information to complete the underwriting report. Please submit the following on CD disc:

1. An updated revised 2009 AHFA and detailed project narrative which highlight ALL changes from Step I Application to Step II Application, including but not limited to explanations of changes in the financing structure, costs and operating expenses. ~~Submit the balance of the Category 1 underwriting fee. If OHFA designates the project as a Category 2, an additional \$5,000 underwriting fee will be due within 3 days of notification.~~
2. Certifications from the architect and civil engineer that construction documents are 50% complete (not schematic design documents). Please provide a CD of the plans in PDF. **DO NOT PROVIDE HARD COPIES.**
3. Updated project timeline. Highlight variances and give reasons for changes to the Performance Standards established from the Step I Application submission.
4. For scatter site and Preservation projects only, the Applicant must **identify** all sites and / or provide valid option contract(s) for site control. Site identification is required to be demonstrated for 100% of land / buildings contemplated for all project types. All other project types (not preservation / NSP / Scatter sites) must have a valid option agreement and be prepared to meet the 10% test by November 19, 2009. Refer to Addendum, Special Conditions, 18 regarding additional scattered site and preservation requirements.
5. For a new construction project, provide documentation and the analysis supporting the property tax number used in the operating expenses. For an existing rehab project, provide a copy of the last 2 years tax bills.
6. Submit verification that an application has been submitted with a lender and the appraiser has been selected. Submit the updated conditional commitment letter or term sheet.
7. Submit verification that the applicant has identified an equity provider and that they have reviewed the project and the project has received approval from the equity providers Investment Committee. Provide a copy of the updated equity provider commitment approval to include but not be limited to pricing, terms, guarantees and reserves. In the event that sufficient Equity Provider interest is not expressed at this time, OHFA reserves the right in its sole discretion, to consider the project for designation as a Category 2 Project. OHFA will notify the Applicant in

writing of its decision within 3 business days. If the project is classified as a Category 2, within 5 business days of receipt of this notification, the Applicant must provide a narrative describing the steps taken to secure an equity investment describing issues inhibiting investor interest in the project

8. For new construction projects, submit verification that the topographic survey is 100% complete for all sites identified or under option agreement. For an acquisition and rehab (single family and multifamily) submit verification that the as build survey(s) are 100% complete. An exemption to this may be provided if the applicant can demonstrate a survey is not required from the lender or equity provider (other than OHFA).
9. For a new construction project, provide verification of submission of the Permit to Install (PITI) application to the OH EPA for main line utility extension approval, if required. Also provide verification that the Storm Water Management and Erosion Plan application has been submitted to the OH EPA. An acquisition / rehab project may be exempt from these requirements if it provides appropriate documentation.
10. If the phase I has identified wetlands, provide from the environmental and / or civil engineer detailed steps that will be taken to mitigate and the projected timing associated with achieving satisfactory resolution, if necessary.
11. Anticipated outcomes of Step II Application Review:
  - a. Designate projects as a Category 1 or Category 2. In the event the project is requesting to become a Category 2 Project, the Applicant must submit verification as part of the Step II application the requirement noted in II (B) 7 above.
  - b. Quantify amount of remaining TCAP, TCE, and NSP funds.
  - c. Continue to evaluate the feasibility of projects and Readiness to Proceed.
  - d. Rescind OHFA commitments for projects unable to meet the established Performance Standards and timely re-allocate those resources.

#### C. Step III APPLICATION submission

Step III Application submission is for those projects invited by OHFA to proceed. Please provide all of the documents listed below at the time of Step III ARRA Application submission. Step III application information must be submitted within 60 days of the invitation letter from OHFA. **DO NOT** submit an ARRA Application if the project Readiness to Proceed cannot be verified or is not supported by documentation submitted. If any of the items below are not submitted, the application will be rejected and may be asked by OHFA to return all funds committed. OHFA and ARRA Underwriting team reserve the right to request additional information to complete the underwriting report.

1. An updated 2009 AHFA and detailed project narrative which highlight changes and variances between Step II to Step III Application including but not limited to explanations of changes in the financing structure, costs, and operating expenses.
2. Please provide copies of the countersigned lender commitment / term sheet. Evidence must be provided that the lender has ordered the appraisal prior to this submission. At a minimum the lender commitment must state they have received, reviewed, and approved the project architectural and engineering plans at 95% complete; project budget and construction costs are acceptable; environmental report(s); operating budget; capacity of the GP's / project owner(s); Capital Needs Assessment and Scope of work are appropriate; market study; lender has order the appraisal; and equity structure / pricing / pay-in schedule.
3. Please provide copies of the countersigned commitment from the equity provider. At a minimum the equity provider commitment must state they have received, reviewed, and approved the projects architectural and civil engineering plans at 95% complete (to be verified by the OHFA Asset Management Team); environmental reports; operating budget; the market

study; the project budget and construction costs are acceptable; capacity of the GP's / project owner(s); the Capital Needs Assessment and Scope of work as appropriate; and total equity / anticipated ARRA, HDAP, NSP funds required / pricing / guarantees/ pay-in structure.

4. For a HUD project, provide verification of approval of the Transfer of Physical Assets (TPA) and Mark to Market approval.
5. For scatter site, NSP, and Preservation, the required 10% Carryover Test documentation must be submitted.
6. Title 40 Protection of the Environment, Subpart C, Section 312.20 as it pertains to requirements to update an Environmental Phase I or Phase II report will apply. **DO NOT SUBMIT A FULL PHASE I OR II REPORT.**
7. Market studies update (Section V below). **DO NOT SUBMIT THE FULL Market Study REPORT.**
8. For a new construction project, provide an updated analysis of the property tax annual expense amount reflected in the operating expenses. For an existing rehab project, if the taxes have changed, provide a copy of the updated tax bill(s).
9. Provide a copy of the ER approval or update from the ER Consultant as to all items outstanding, any issues that require additional time and attention, and estimated time to complete the ER Record.
10. Please provide copies of the building permits, letter evidencing the applicant's ability to obtain building permits subject to payment of fees, or evidence that the project plans have been submitted for permits. Include the contact information of the person responsible to approve the issuance of building permit. For a acquisition / Rehab see Addendum, Special Conditions (19)
11. For renovation projects, provide the final Capital Needs Assessment (CNA) executive summary and scope of **DO NOT SEND THE FULL REPORT.**
12. For a new construction project, provided verification of OH EPA approval for the Permit to Install (PITI) application for main line utility extension, if required and OH EPA approval for the Storm Water Management and Erosion plan. An acquisition and rehab project may be exempt from this requirement if it provides appropriate documentation.
13. For all Category 1 and 2 Projects, submit a certification from the Architect and Engineer that all construction documents are 95% complete. A full set of plans will be required on CD for all Projects. **DO NOT SEND PAPER COPIES OF THE FULL 100% ARCHITECTURAL OR CIVIL PLANS.**
14. For new construction projects, provide evidence the ALTA survey has been ordered and its completion date is reflected in the project schedule. For an acquisition and renovation project, provide evidence the as build topographic survey has been ordered. If the applicant can demonstrate that neither the proposed lender and / or equity provider (except if OHFA is the equity provider) require these surveys as a condition to close, then the Applicant will be exempt from this requirement.
15. Complete the contractor identity of interest form.

## **V. MARKET STUDY UPDATE FOR ARRA REQUIREMENTS**

An updated market study is required at the submission of the Step III Application. ARRA applicants must obtain an updated Market Study from the original market analyst. Permanent supportive housing and preservation projects are exempt from this requirement. An acceptable update will include but not be limited to a brief letter update, executive summary, analyst's conclusions, and any Appendices of additional data sources utilized. **No site visit is required.**

- A. Updated Project Description and Executive Summary.** Include a brief discussion of *any* changes in the project that have occurred since the original market study.
- B. Updated Demographic Data.** This section of the report should be updated to reflect any changes in the current market that have occurred since the original Market study such as:
  - 1. Any adverse change in local economic conditions due to plant or business closings, increased unemployment rate, general economic decline in the Primary Market Area (PMA).
  - 2. Impact of foreclosed, abandoned and vacant single family homes in the vicinity of the proposed project should be discussed.
  - 3. Additional comments regarding the long term affect the current economic challenges will have on the PMA. Market analysts are encouraged to utilize data from the local department of Labor, Department of Economic Development and Local Chamber of Commerce.
- C. Updated Comparable Rental, Capture Rate and Absorption Projections.** A narrative and chart that updates the original report rental data to today's current market conditions reflected in a summary chart format for ease of comparison. This will provide updates in comparable tax credit rents and identify major shifts in market rate rents if applicable.
- D. Provide a statement from Market Analyst that affirms that a market continues to exist for the project as proposed, or cite the market analysts recommended changes.**

## **ADDENDUM**

### **TAX CREDIT EXCHANGE (TCE) AND TAX CREDIT ASSISTANCE PROGRAM (TCAP) TERMS, CONDITIONS AND COSTS**

#### **A. TCE FUNDING**

1. TCE funding will be in the form of a grant (or loan). It will have a recapture provision for 15 years.
2. The project must remain in compliance for 15 years. After the initial compliance period of 15 years, the project will be monitored under the OHFA extended compliance guidelines.
3. If a project defaults on its applicable program requirements within the 15 year recapture period, all TCE funds received must be repaid per guidance provided by the IRS to the United States Treasury by the General Partners and Owners of the project. This will be detailed in the project Limited Partnership and / or Operating Agreement which may include interest and penalties.
4. The priority use of TCE funds will be permanent source gap filler for projects with Investors. Projects without investors will be required to go through stringent underwriting and must adhere to OHFA funding and closing timelines.
5. For a TCE Grant (or loan) project being constructed or renovated, OHFA will provide funds into each project first on a reimbursement of already incurred and justified eligible basis items. OHFA will be flexible in how those funds will be distributed. They may be disbursed monthly, quarterly, or annually pari passu and proportionate with the construction lender funds if required. Funds will be released only upon receipt of the appropriate AIA (or applicable) form, signed by lender, construction consultant, and investor (as applicable). Verification of title, and appropriate lien releases will also be required. OHFA reserves the right at the project owner's expense, to contract with third parties to provide Asset Management services.
6. Security for all 100% TCE projects will be established consistent with IRS guidance. In addition, the form, structure and substance may vary by project.
7. When OHFA acts as the sole or primary investor (100% TCE), the Operating Deficit Guarantees will be capped to the Total Developer Fee allowable under the QAP and defined in the AHFA, through Stabilized Operations. The Stabilized Operations are defined as follows:
  - a. Project maintains for a period of 12 consecutive months at 95% occupancy.
  - b. Debt service coverage is maintained at or above 1.20 for a period of 12 consecutive months.
  - c. Upon achievement of 12 consecutive months of Stabilized Operations, the Operating Deficit Guaranty will be reduced to an amount equivalent to 12 months of Operating Expenses, Debt Service, and Replacement Reserves. This guaranty will remain in effect 10 years.
8. Asset Management fees will not be paid as a normal annual operating expense. They will be fully funded / paid into deposit accounts prior to OHFA issuing either an 8609 or upon Qualified Occupancy (in the event of no investor). The maximum fees charged between Syndicator/Investor and OHFA will be up to \$10,000 per year for minimum of 15 years. The fee will be set depending on the amount of services required and if an investor is part of the project team.

~~9. Underwriting fees are paid 50% upon Step I Application submittal and 50% upon Step II Application submission or the Application will be automatically rejected. Additional underwriting fees may apply at the time a project is designated as a Category 2 or receives a conditional award of NSP funds. Applicant comments to Draft Reports should not trigger additional fees unless there are material changes to the project scope and structure as determined in underwriter's sole discretion. The Underwriting Fees are as follows:~~

- ~~a. Category 1 fee is \$5,000 per HTC project submitted.~~
- ~~b. Category 2 or NSP funded project fee is \$10,000 per HTC project submitted.~~
- ~~c. Bond project fee is \$10,000 per project.~~

## **B. TCAP FUNDING**

1. TCAP funds can be used as construction loans, possible grants, lower tier and upper tier equity bridge loans, loans utilized during the construction period to prepay the construction loan, and in certain instances, as permanent loans. Permanent loans may be used to replace an OHFA or non-OHFA construction loan(s) in accordance with TCAP regulations. All outstanding TCAP Loan balances prior to March 1, 2012 will carry a 0% interest rate.
2. TCAP Funding Construction Loan Terms will be for the financing of development costs related to the construction or rehabilitation. Loans will carry an Interest Rate of 0% amortized over thirty (30) years with a term of 18 months. Subject to OHFA approval, the Borrower may request two (2) additional three (3) months extension for a total construction loan term not to exceed twenty-four (24) months.
3. TCAP Construction financing will have full recourse against the borrower.
4. The ARRA Underwriting team will evaluate each project to determine if the requested loan amount is adequate in size and meets the stated policy objectives above.
5. A portion of the TCAP construction loan may remain in the project as a Bridge Loan. The terms and conditions established for the Bridge Loan program will be similar to the existing OHFA 10 year Bridge Loan program.
6. Asset Management fees will be fully funded prior to OHFA issuing either an 8609 or upon Qualified Occupancy (in the event of no investor). The fees will be up to \$10,000 per year for minimum of 15 years. The final fee will be set depending on the amount of services required and if an investor is part of the project team.

## **C. NSP – AFFORDABLE RENTAL HOUSING INIATIVE (ARHI) FUNDING**

1. NSP funds can be used as construction loans, possible grants, upper tier and lower tier equity bridge loans, loans utilized during the construction period to prepay the construction loan, and in certain instances, as permanent loans or to replace a portion or all of the projected tax credit equity required. Permanent loans may be used to replace an OHFA or non-OHFA construction loan(s) in accordance with NSP regulations. NSP Loan interest rates may vary by project subject to ARRA Underwriting recommendations

2. If an Applicant requests NSP funds to replace 100% of tax credit equity, or the ARRA Underwriting Team recommends this use of NSP funds for a project, and the request is approved, the project will be classified as a Category 2 and subject to all of the additional underwriting and closing conditions. In the event that less than 100% of tax credit equity is replaced, the project will remain a Category 1.
3. Project must meet all income target requirements and Federal requirements.
4. Project must have submitted for NSP funds and shown it as a source of funds in the 2009 HTC Funding Application.
5. During underwriting, the amount of HTC approved may be reduced and be replaced by NSP funds.
6. NSP funds may be utilized as a grant or loan, as a long term upper tier or lower tier bridge loan, or in some select instances, replace all or part of investor equity similar to a TCE project. In the latter case, OHFA will require more stringent conservative standards applicable under Addendum A.
7. NSP Funding Construction Loan Terms will be for the financing of development costs related to the construction or rehabilitation. Loans will carry an Interest Rate of up to 2% amortized over thirty (30) years with a term of 18 months. Payments of interest only may apply during the construction period. Subject to OHFA approval, the Borrower may request two (2) additional three (3) months extension for a total construction loan term not to exceed twenty-four (24) months.
8. NSP funds must be used for projects located in target area of highest needs as designated by the Ohio Department of Development or by a local NSP recipient.
9. Other conditions as may apply.

**D. Special Conditions for TCE, TCAP, and NSP Funded Projects**

1. Rent, income, and use restrictions will apply, as described in the Ohio Qualified Allocation Plan with respect to an award of LIHTC and Bond project regulations. These restrictions will be secured by a Land Use Restriction.
2. Written agreements shall be entered into between OHFA and the borrower.
- ~~3. Document Preparation fees will be permitted as an eligible project costs. All projects will be subject to these fees and costs. This fee is not eligible to be paid from TCAP funds. OHFA Document Preparation fee will be paid at closing as follows:~~
  - ~~a. With an investor (Category I) the fee is \$7,500 per project~~
  - ~~b. Without an investor (Category II, NSP, or Bond Project) the fee is \$15,000 per project~~
4. TCE, TCAP or NSP grant / loan proceeds shall be disbursed on a draw basis to fund eligible hard and soft costs. TCE and TCAP funds must be utilized to fund costs that meet the eligible basis requirements defined by the Section 42 LIHTC program. Each draw is subject to approval by OHFA or its Asset Manager.
5. Project annual audited financial statements and applicable ARRA reports as cited in the ARRA rules must be provided.

6. ARRA and / or NSP recipients must submit to OHFA the contractor cost certification in the revised OHFA format embedded within the ARRA Approved AHFA in Step I. At each Application Step, the Applicant may modify the costs and provide detailed explanations as to the changes. .
7. The recipients of ARRA or NSP funds must meet and remain in compliance with the Qualified Allocation Plan, OHFA ARRA guidance and policy, and any other applicable Federal requirements.
8. If at any time during the Compliance Period the project ceases to be a "qualified low income housing project" (as defined in Sec. 42 (g)(1) of the Internal Revenue Code) or any substantial number of units, as determined by OHFA, in the project cease to be "low income units" (as defined in Sec. 42(i)(3) of the Code), the balance of the loan becomes due and payable immediately. This provision may be enforced by foreclosure, liens, or other methods enforceable under Ohio law.
9. All activities must be conducted in full compliance with all program statutes, the Internal Revenue Service (IRS) regulations and the U.S. department of Housing and Urban Development (HUD) regulations.
10. When OHFA acts as the sole or primary investor, benefits, such as depreciation and losses, may generate additional proceeds for a project. OHFA will determine in its sole and absolute discretion the best use of those resources, if applicable or available.
11. All terms, conditions, assignments of rents and leases for any TCE, TCAP, or NSP funds will be set forth in the TCE Grant Commitment and TCE Grant Agreement, TCAP Loan Commitment and TCAP Loan Documents, or NSP Grant Agreement or NSP Loan Agreement.
12. For initial project underwriting, Applicants can present how they have negotiated the payment of development fees with their equity investor and bank. For all ARRA, TCE, or NSP funded projects, Applicants can expect variances to the amount and payment of development fees. The underwriting analysis will take into consideration the Applicants previous applications as it reviews each project for ARRA and NSP Stimulus Funding.
13. A detailed lease up budget must be provided by the General Partner that reflects the projects projected deficit from construction start to stabilized operations. The ARRA Underwriting team will expect a minimum of 4 months of premarketing expenses prior to the projected first building availability. If the Applicant is unable to provide a detailed budget, the ARRA Underwriting team will utilize \$2,500 per unit in the development budget. Any portion of Lease Up reserves not utilized will be required to be placed as additional Operating Deficit Reserves to the benefit of the project.
14. The "rolled up" detailed operating budget in the AHFA will not be sufficient to evaluate the projects operating budget. Please provided the detail found in an audit or asset management report, or owners report. All line item variance must be explained in the
15. TCE – Category 2 Projects.
  - a. At the time of designation as a Category 2 Project, OHFA will exchange the current allocation of credits awarded to the project.
  - b. OHFA reserves the right to issue a nominal amount of credits to all TCE projects.
  - c. Once a Step I and II Application is submitted, the ARRA Underwriting Team will evaluate and work closely with the Applicant GP

representative to finalize all due diligence materials required for OHFA to Close.

- d. The detailed project timeline submitted in the Step I and II Application will be strictly adhered to in order to ensure the project will close.
- e. All 100% TCE or NSP funded project Operating Deficit Reserves will be held and / or controlled by OHFA in their sole discretion.
- f. An additional Long Term Operating Reserve will be established by OHFA for all 100% TCE or NSP funded projects. This will be calculated on a range between 2.5% and 4% of the projected TCE funds and will be considered as an eligible project expense.
- g. In the event that a Category 2 Project is unable to submit a completed Step II Application by the deadline date, all OHFA allocations and resources will be returned and any OHFA outstanding commitments will be rescinded.
- h. Due to the current IRS expenditure deadline established in Section 1602, TCE funds must be structured as the first money in a project.

16. Other Requirements:

- a. All applications for OHFA's American Recovery and Reinvestment Act (ARRA) funding must also have a corresponding expression of interest in applying for recovery funds on the State of Ohio Federal Stimulus Initiative website at <http://www.recovery.ohio.gov/opportunities/state/>.
  - b. When submitting a proposal on the Federal Stimulus Initiative website, applicants must select the Tax Credit Assistance Program and/or Tax Credit Exchange Program listed under the "Poverty, Work, and Opportunity" programs list. Applicants that do not submit an expression of interest on this website by 5:00 p.m., October 14, 2009 shall not be awarded ARRA funds.
  - c. OHFA's application requirements are provided in the ARRA Application and Underwriting Guidelines located at <http://www.ohiohome.org/arra/default.aspx>.
17. OHFA reserves the right to increase or decrease ARRA and NSP Funding Commitments in its sole and absolute discretion in order to attract investor equity to a project.
18. If a Category 2 Project requesting OHFA to be the investor receives a negative underwriting report resulting in the return of the HTC credit award during ANY Step in the Application process, \$500 of the Application Fee will be refunded
19. For a scattered site and Preservation projects, the Step II application deadline is the date that ALL sites must be identified and or under valid option agreement(s). The Step III Application Submission is the deadline for all scatter sites to be owned by the project GP and meet the 10% Carryover Test. The Step III Application Submission is the deadline for preservation projects to complete the HUD TPA and meet the 10% Test for Carryover. Any reduction in project size or other changes requires OHFA approval. The Applicant must submit this letter for OHFA consideration by the Step II deadline. OHFA in its sole discretion will review the request and provide its ruling within the twenty (20) business day review period..
20. If a project is an acquisition / rehab, provide a letter from the jurisdiction that NO building permits to the municipality or state are required for any trade or activity identified within the scope of which, which shall include but not be limited to electrical, HVAC, and plumbing. In the event of a substantial rehab, provided copies of the permits from the major trades, such as electrical, HVAC, and plumbing, or a letter from the applicable

jurisdiction evidencing that either permits are not required or can be picked up upon payment of fees. Include the contact information of the person responsible to approval the issuance of permits, regardless if they are not required.

20. All 2009 HTC project must meet carryover by November 19, 2009 in order for OHFA to issue the Carryover Allocation Agreement by December 31, 2009.
  - a. Preservation, NSP, and scatter site single family lease purchase projects must identify all sites and by Step II Application and meet the 10% test by the Step III Application Submission.
  - b. All other projects must meet the 10% test by November 19, 2010.
  - c. These dates may be subject to change regarding clarifications to the Part 58 Choice Limiting Activities.
  - d. No extensions will be granted to the above dates due to the nature of the ARRA and NSP funding requirements.