LOW INCOME HOUSING TAX CREDIT
PROGRAM SUMMARY

The federal Low Income Housing Tax Credit Program was created under the Tax Reform Act of 1986 to encourage a public/private partnership in the development of affordable housing and is governed by Section 42 of the Internal Revenue Code. As the program name implies, the credit is a dollar for dollar reduction in federal income tax liability. Affordable housing developers that are awarded housing credits partner with an equity investor who purchases the credits in order to offset their tax liability. The capital or equity received from the sale of these credits reduces the amount of debt or loans needed to cover the costs to construct the affordable housing. As a result, rents can be reduced to more affordable levels since less income is necessary to operate the development.

New Jersey Housing and Mortgage Finance Agency (HMFA) is New Jersey's authorized housing credit agency responsible for administration of the federal low-income housing tax credit program on behalf of the IRS. There are two "pools" of credits that HMFA administers: the 9% credit and the 4% credit. The annual amount of 9% credits available to each state is based on population – currently $2.30 per person. Through the sale, or syndication, of these credits, the $20 million allocated by HMFA each year generates approximately $140 million in equity for NJ's affordable housing market. Since the equity from the sale of the 9% credit can cover roughly 70% of a project's total development cost, demand for these credits is very high: roughly four submissions for every project funded. As such, HMFA has created a competitive process in its Qualified Allocation Plan (QAP) to allocate these credits. The QAP is promulgated as a regulation in accordance with the New Jersey Administrative Procedure Act. Once a draft of the QAP is approved by the Board of the HMFA, the proposal is published in the *NJ Register* to allow the public an opportunity to comment. A public hearing is also held at HMFA in order to further solicit comments from the public. HMFA takes into consideration all public comments and the final QAP is approved by the HMFA Board and then is adopted as a regulation. This process is followed annually.

The QAP outlines a set of core eligibility requirements and a ranking system for projects to apply for tax credits. The QAP is reviewed annually to ensure it remains in line with state and federal priorities. Applications for 9% credits are accepted twice a year, usually in April and August. The $20 million pool of credits is divided into application cycles so like projects compete against each other. The April submission has a Family, Senior and Supportive Housing Cycle where the bulk of the credits is awarded (summary of ranking points for Family, Senior and Supportive Housing Cycle is attached). The August round is typically a "clean-up" round and all projects may apply.

The eligibility requirements are similar to items that would be requested by a mortgage lender to demonstrate a project's readiness to proceeds once credits are awarded. These criteria include evidence of site control, local approval such as preliminary site plan and firm commitments from other funding sources.

Once projects are determined to meet eligibility criteria per the QAP, HMFA awards credits to those projects with the highest score within each cycle until HMFA's credit authority is exhausted. Priorities under the QAP include readiness to proceed (i.e. ready to begin construction within 120 days of award), projects that assist a municipality in meeting its COAH obligation, incorporation of green building/design, smart growth principles, provision of social services to residents and developer experience.

The 4% credit is administered by HMFA on a non-competitive basis. A project "automatically" qualifies for the 4% credit as long as it meets the minimum eligibility requirements under the QAP and at least 50% of the total project cost is financed with the proceeds of tax-exempt bonds from the state's volume cap. The equity from the sale of 4% credits generates only 30% of a project's total development cost. Therefore, a larger amount of other funding sources, such as Balanced Housing or Home Express, are needed to make a 4% deal feasible. The eligibility requirements for a 4% deal are the same as a 9% deal, the only difference is the ranking/point criteria do not apply.

Due to recent market conditions, the investor interest in tax credits has diminished as fewer organizations have either the cash/liquidity to be able to invest in tax credit properties or the profitability to necessitate a tax credit. This being the case, the amount investors are willing to pay for tax credits has commensurately decreased. In an effort to provide assistance in closing the funding gap created by the drop in equity pricing and to jump start construction of affordable housing stalled by the current economic climate, approximately $2.25 billion of federal assistance ("TCAP") nationwide has been set-aside for tax credit projects under the American Recovery and Reinvestment Act of 2009. HMFA will administer NJ's portion of this funding, totaling $61 million in direct subsidy, in conjunction with its administration of the tax credit program. It is anticipated that HMFA will structure TCAP funds as low-interest secondary (or soft) loans where repayment is made from available cash flow from the operations of the project, if any.

HMFA is in the process of developing its selection criteria for TCAP funds and pursuant to guidance from HUD, will post the criteria on the HMFA website in the coming weeks for public comment. The highest priority for TCAP funding will be for projects that are able to be completed within three years. Within this priority, it is anticipated that the first preference for TCAP funds will be for projects receiving 9% tax credits in this current April 2009 funding round. Any remaining TCAP funds will then go to assist "shovel ready" 4% deals and/or will be allocated on a competitive basis to projects applying to the next tax credit funding cycle scheduled for August 2009.