

AUG 18-19,

09

Today's Real Estate Market

**The Changing Landscape for Affordable, Commercial
and Green Financing**

The InterContinental Hotel Buckhead, Atlanta, GA

2009 CONFERENCE SERIES



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American Recovery and Reinvestment Act (ARRA) of 2009

- Tax Credit Assistance Program (TCAP)
 - Grants to States in Lieu of LIHTC for 2009 (Section 1602) – Exchange Program
 - Purpose is to “jumpstart the nation’s ailing economy with a primary focus on creating and saving jobs in the near term and investing in infrastructure that will provide long-term economic benefits”
 - Accountability and Transparency
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TCAP

- \$2.25 billion in appropriations
- Promote energy efficiency and creating green jobs
- Administration and oversight by and reporting to HUD
- Based on percentage of FY 2008 HOME Program appropriation received by the state
- HOME Program requirements do not apply
- Distributed competitively pursuant to state's QAP
- Applies to projects that have received or will receive LIHTC awards between October 1, 2006 and September 30, 2009
- Grantees are the housing credit agency of each of the 50 states, DC , and Puerto Rico

TCAP (cont.)

- Priority will be given to projects that will be complete by February 16, 2012
 - State housing credit agencies must meet following deadlines:
 - Commit not less than 75% of funds by February 16, 2010
 - Demonstrate that all project owners have expended 75% of the TCAP funds by February 16, 2011
 - Expend 100% of TCAP grant by February 16, 2012
 - Subject to same limitations as required under Section 42 (including rent, income, compliance monitoring and use restrictions)
 - Subject to National Environmental Policy Act (NEPA) and Davis-Bacon Prevailing Wages
 - Fair Housing will apply
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TCAP (cont.)

- Funds must be used for capital investment in eligible LIHTC projects
- Capital investment = eligible basis items, costs of land acquisition, on-site demolition costs, and hazardous material remediation costs; NOT swimming pools
- TCAP funds must be repaid if used for ineligible costs, for a project that is never completed, or for a project that failed to meet requirements of Section 42
- Agencies must perform asset management functions (or contract out) for compliance with Section 42 and long term viability at owner's expense
- Bond-financed projects with and LIHTC award are eligible
- Funds can be awarded as loan or grant
- Entire credit allocation may not be returned; Must be equity investment
- Georgia = \$54 million; Texas = \$148 million; Florida = \$101 million

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Exchange Funds (Section 1602)

- Administration and oversight by and reporting to Department of Treasury and IRS
 - Estimated to be \$3 billion for 2009
 - State housing agencies elect to exchange portion of 2009 LIHTC ceiling for cash grants = 85% of
 - 10 * 100% of unused 2008 credits and amount returned in 2009 plus
 - 10 * 40% of 2009 credits and unused credits allocated to state in 2009 National Pool
 - Agencies must use grant to make subawards to finance the acquisition or construction of qualified low-income buildings
 - Agencies can make subawards through December 31, 2010
 - Any amounts not disbursed before January 1, 2011 are returned to Treasury
 - Exchange funds can be used for projects with and without allocation of credits
 - Good faith effort to obtain an investment commitment must be shown
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Exchange Funds (cont.)

- Once grant is awarded, Treasury will make funds available for grantee to draw from as needed to make subawards
 - Once funds are drawn from Treasury, funds must be expended as a subaward by the grantee within 3 days
 - Maximum amount of subaward = 85% of eligible basis
 - Funds are awarded to projects as grants (will not reduce eligible basis and are not taxable)
 - Cash assistance can be in form of loan if non-interest bearing and non-repayable except for recapture
 - Funds can be used in development with tax exempt bonds
 - Funds cannot be used to pay for ineligible items
 - Subject to same requirements as Section 42 (including rent, income, and use restrictions)
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Exchange Funds (cont.)

- Agencies must perform asset management functions (or contract out) for compliance with Section 42 and long term viability
 - May collect reasonable fees from subawardee to cover asset management-related expenses
 - Recapture = Full amount of subaward – 1/15th for each full year property is in compliance
 - IRS Form 8609 is still used
 - Submitted to agency if no credits were allocated
 - Submitted to agency and IRS if credits were allocated
 - Georgia = \$76 million
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