



2009

**Tax Credit Assistance Program
(TCAP)**

and

**Section 1602 Exchange Program
Application**

I. INSTRUCTIONS

- a. Applications are due in NIFA's office at 1230 'O' Street, Suite 200 in Lincoln, NE, no later than **5:00 p.m. on July 31, 2009** for the first application cycle. Subsequent application cycles will be announced by NIFA if funds are available.
- b. An original of the complete application must be submitted to NIFA's office and a complete copy should be emailed to robin.ambroz@nifa.org in a .pdf file.
- c. The original application must contain an original signature by an authorized representative of the applicant.
- d. Each original application must be standard two-hole punched at the top.
- e. All attachments must be clearly identified in the bottom right-hand corner of the document.

II. THRESHOLD ELIGIBILITY FOR TCAP APPLICATION

- a. Developments that have not been placed in service and have received a LIHTC award pursuant to NIFA's Qualified Allocation Plan (QAP) between October 1, 2006 and September 30, 2009 are eligible to apply for TCAP funds.

An "award of LIHTCs" is defined as (i) the date NIFA's Board of Directors approves a conditional reservation for a development and (ii) with respect to developments to be financed with tax-exempt bonds, the date NIFA issues a Section 42(m) Letter to a development. This definition shall be uniformly applied by NIFA to all LIHTC developments for the purpose of determining development eligibility for TCAP funding.

- b. TCAP fund applicants must continue to meet the threshold and scoring requirements as set forth in the original LIHTC application for such development.
- c. Development owners must comply with all requirements of American Recovery and Reinvestment Act (ARRA) of 2009, including but not limited to the applicable TCAP federal requirements. (See Appendix I for a list of the TCAP federal requirements.)

- d. Development owners must not be in breach of the terms and conditions of their Carryover Allocation Agreements, Reservations or 42(m) Letters, as applicable.
- e. The amount of TCAP funds requested cannot exceed the LIHTC eligible basis amount.
- f. The development must have an equity investment for the LIHTC.
- g. A site visit with respect to the development must be completed and the site must be approved pursuant to the HOME site review process as set forth in the 2009 LIHTC \ HOME application.

III. THRESHOLD ELIGIBILITY FOR SECTION 1602 APPLICATION

- a. The development must have received a 2008 or 2009 award of 9% LIHTC for the construction or rehabilitation of qualified low-income buildings under Section 42 of the Internal Revenue Code (the "Code"). An "award of 9% LIHTC" has been defined as the date NIFA's Board of Directors approves a conditional reservation for a development. **NOTE: Midwestern Disaster Area (MDA) credits are not eligible for exchange under Section 1602.**

If any Section 1602 funds remain after applications have been accepted for 2008 and 2009 LIHTC developments, remaining funds may be available as gap financing in a subsequent Section 1602 application round for developments that have received a 2010 LIHTC award.

- b. The development must have an equity investor for all or a portion of its LIHTC award. If an equity investor is purchasing only a portion of the LIHTC, the applicant must demonstrate to the satisfaction of NIFA that a good faith effort has been made to obtain an equity investment for the entire LIHTC award.
- c. The development must continue to meet the threshold and scoring requirements as set forth in the original LIHTC application submitted for such development.
- d. Development Owners must not be in breach of the terms and conditions of their Reservation or Carryover Allocation Agreement.

- e. Developments must comply with all requirements of Section 1602 of ARRA and Section 42 of the Internal Revenue Code, including any subsequent guidance issued by the Treasury Department.
- f. The amount of Section 1602 funds will not exceed the amount necessary to ensure the financial feasibility of the development and its viability as a development throughout the credit period.

IV. AWARD OF FUNDS

NIFA will evaluate the information contained in this application in conjunction with information submitted previously in the development's LIHTC application. NIFA's selection criteria and guidelines for TCAP and Section 1602 funds can be found in Appendix II and III.

Applicants may request TCAP and/or Section 1602 funds by completing and submitting this application to NIFA by the required deadline. NIFA will determine the final amount and source of funding as it deems appropriate.

The TCAP funds will be structured as loans, with the final terms determined by NIFA.

The structure and terms of Section 1602 funds will be established upon the receipt of further guidance from the Treasury Department.

V. EXPENDITURE & COMPLETION REQUIREMENTS

Owners must expend 75% of their TCAP award by December 31, 2010 and the development must be placed in service as required under Code Section 42, but no later than February 16, 2012.

All Section 1602 funds must be disbursed by December 31, 2010 and developments must meet the placed in service requirements under Code Section 42.

VI. FEES

An application fee is NOT required to apply for TCAP and/or Section 1602 funds.

An allocation fee of 1% of the Section 1602 award is due to NIFA at the time the Section 1602 agreement is executed.

Both TCAP and Section 1602 developments will be required to contract for asset management services at their own expense with an entity that is acceptable to NIFA and provide reports to NIFA as requested.

VII. ADDITIONAL INFORMATION

NIFA may request additional information or clarifications in its review of the application. Any requests for additional information or clarifications will be made in writing to the applicant.

VIII. INQUIRIES

Please direct any inquiries to:

Robin Ambroz-Hollman
Nebraska Investment Finance Authority
1230 'O' Street
200 Commerce Court
Lincoln, NE 68508
Telephone: 402-434-3900
Fax: 402-434-3921
Email: robin.ambroz@nifa.org

IX. APPLICATION

Name of Applicant \ Ownership Entity: _____

Address: _____ City, State, Zip Code: _____

Telephone: _____ Fax: _____ Email: _____

Name of Development: _____ NIFA Number: _____

Development Address: _____ City, State, Zip Code: _____

Congressional District: _____

Applicant is requesting:

TCAP Funds Amount: \$_____

Section 1602 Funds Amount: \$_____

Original annual LIHTC amount: \$_____ Date of NIFA LIHTC award: _____

If a portion of the 2008 or 2009 LIHTC award will be returned, please indicate the amount of annual LIHTC's from NIFA's credit ceiling that will be returned.

Amount of LIHTC to be returned: \$_____

NOTE: If you are proposing to return a portion of LIHTC, a valid commitment for the remaining LIHTC must be contained in Attachment 2.

Has a construction contract been executed for the development? YES NO

Has construction of the development commenced? YES NO

Has the development received other federal funding that requires adherence to:

National Environmental Policy Act

Davis-Bacon Prevailing Wages

The development has not received any other federal funding.

X. REQUIRED ATTACHMENTS

The following checklist details the required attachments to the application. Each attachment should be clearly identified in the lower right-hand corner of the document.

<input type="checkbox"/>	Attachment 1	Detailed Construction Timeline
<input type="checkbox"/>	Attachment 2	<p>Equity Commitment for all or a portion of the LIHTC award detailing the LIHTC pricing, underwriting assumptions, and closing date. The Equity Commitment must be executed by the investor and the Applicant\Owner.</p> <p>NOTE: If an equity investor is purchasing only a portion of the LIHTC, the applicant must demonstrate that a good faith effort has been made to obtain an equity investment for the entire LIHTC award by providing a minimum of two letters from two separate investor partners, outlining their ability (or inability) to purchase all or a portion of the LIHTC.</p>
<input type="checkbox"/>	Attachment 3	Updated financing commitments meeting the requirements of Exhibit 109 and Exhibit 110 as outlined in the 2008/2009 LIHTC Application.
<input type="checkbox"/>	Attachment 4	Updated commitments for other sources of funds meeting the requirements of Exhibit 107 in the 2008/2009 LIHTC Application.
<input type="checkbox"/>	Attachment 5	<p>Updated development worksheets (Exhibit 111 in the 2008/2009 LIHTC Application).</p> <p>NOTE: NIFA will require a minimum developer\owner contribution equal to 20% of the developer fee in the form of a deferred developer fee, general partner\managing member equity contribution, or other form acceptable to NIFA. NIFA will also allow a maximum debt service coverage ratio of 1.50. NIFA reserves the right to modify these requirements on a case by case basis at its sole discretion.</p>
<input type="checkbox"/>	Attachment 6	Provide evidence that the development meets all local zoning requirements or has an approved conditional use permit as required in Exhibit 105 of the 2008/2009 LIHTC Application.

<input type="checkbox"/>	Attachment 7	If applying for TCAP, provide a copy of the approved site inspection.
<input type="checkbox"/>	Attachment 8	<p>If applying for TCAP, provide a completed copy of Exhibit 12 from the 2008/2009 LIHTC Application.</p> <p>For more information regarding the environmental review process, please contact Brian Gaskill at 402-471-2280 or brian.gaskill@nebraska.gov</p>
<input type="checkbox"/>	Attachment 9	<p>If applying for TCAP, provide the name and contact information for the Certified CDBG Administrator, City of Lincoln staff, or City of Omaha staff that will act as the Labor Standards Compliance Officer for the Davis-Bacon requirements.</p> <p>NOTE: Each development that receives TCAP funds must contract with a Certified CDBG Administrator, the City of Lincoln, or the City of Omaha to oversee the Davis-Bacon requirements and provide reports to NIFA or its designee. The cost associated with these services is an eligible TCAP expense. The maximum allowable fee for these services is \$5,000.</p>

XI. CERTIFICATION OF APPLICANT \ OWNER

The undersigned, on behalf of the applicant entity, is (are) familiar with the provisions of the TCAP and\or Section 1602 Programs, and, to the best of my (our) knowledge and belief, the applicant entity has complied, or will comply, with all of the requirements which are prerequisite to an award of TCAP and\or Section 1602 funds by NIFA. I (We) understand that the TCAP and Section 1602 Programs will be governed and controlled by the rules and regulations issued by the United States Department of Housing and Urban Development (HUD) and the United States Treasury, and I (we) have read such rules and am (are) familiar with the requirements thereof. The undersigned further certifies that the information set forth in this application, and any attachments and exhibits thereto, is true, correct and complete, that no information contained in this application or in the listed attachments and exhibits is in any way false, incorrect or incomplete; and that the proposed construction/rehabilitation will not violate zoning ordinances or deed restrictions.

I (We) understand that any misrepresentations and/or fraudulent information contained within this application may result in the revocation of TCAP and\or Section 1602 funds by NIFA and potentially my (our) and related parties being barred from future NIFA Program participation and notification of such to the appropriate governing bodies.

I (We) hereby make application to NIFA for TCAP and\or Section 1602 funds. I (We) agree that NIFA's directors, officers, employees and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the TCAP and\or Section 1602 Programs; therefore, I (we) assume the risk of all damages, losses, costs and expenses related thereto and agree to indemnify and save harmless NIFA or any of its directors, officers, employees and agents against any and all claims, suits, losses, damages, costs and expenses of any kind and of any nature that NIFA may hereinafter suffer, incur or pay arising out of its decision concerning the application for TCAP and\or Section 1602 funds or the use of the information concerning the TCAP and\or Section 1602 Programs.

I (We) certify that the development remains the same as proposed in the original LIHTC application dated _____.

Signature of Applicant/Owner

Date

APPENDIX I

TCAP FEDERAL REQUIREMENTS

Developments that receive an award of TCAP Funds must comply with all of the following:

1. Fair Housing Act (42 U.S.C. 3601-19 and implementing regulations at 24 CFR Part 100 and 24 CFR Part 107)
2. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794 and implementing regulations at 24 CFR Part 8)
3. Compliance with NIFA's Affirmative Fair Housing Marketing Plan requirements
4. National Environmental Policy Act and Related Laws (24 CFR Part 58)
5. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 (d))
6. The Age Discrimination Act of 1975 (42 U.S.C. 6101-07 and implementing regulations at 24 CFR Part 146)
7. The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 as implemented at 24 CFR Part 21)
8. Davis-Bacon Prevailing Wages
9. Lead Based Paint Poisoning Prevention Act and Residential Lead-Based Paint Hazard Reduction Act of 1992 (24 CFR Part 35)
10. Anti-Lobbying Restrictions (31 U.S.C. 1352 and implementing regulations at 24 CFR Part 87)
11. Non-procurement Debarment and Suspension (2 CFR Part 2424)

APPENDIX II

TCAP GUIDELINES & SELECTION CRITERIA

1. Competitive Process. As described below, NIFA will distribute the TCAP funds competitively pursuant to the requirements of ARRA and pursuant to the Qualified Allocation Plan (QAP) for the State of Nebraska.
2. Application Process.
 - a. NIFA will post a notification and application on www.nifa.org and www.recovery.nebraska.gov with application submission and award dates.
 - b. Once a TCAP application has been submitted for a development, any choice-limiting activities prior to the successful completion of the environmental clearance review will disqualify a development from receiving TCAP funds. Choice-limiting activities include the leasing or disposition of land and any activity that will result in a physical change to the property, including acquisition, demolition, movement, rehabilitation, conversion, repair or construction.
 - c. TCAP funds may only be used for costs includable in the eligible basis of a development. The use of TCAP funds for the construction of swimming pools is explicitly prohibited.
 - d. TCAP funds will be awarded competitively and pursuant to the terms and conditions of the 2009 LIHTC Qualified Allocation Plan.
3. Selection and Ranking Criteria. Developments will be evaluated on each of the criteria set forth in Priority #1, #2, and #3 below. Developments will be ranked using a scale of “High”, “Medium” or “Low”.
 - a. Priority #1: Priority will be given to developments that are expected to be completed within 3 years from the date of the ARRA enactment. Therefore, developments must demonstrate the ability to expend at least 75% of their TCAP award by December 31, 2010 and place the development in service by no later than February 16, 2012. The following factors will be considered:
 - i. Construction timeline (if construction has commenced, status of construction progress)
 - ii. Year of LIHTC award

- iii. Status of equity investor for the tax credits
 - iv. Ability to comply with the federal requirements set forth in Section 5 below
 - v. Status of financing
 - vi. Status of approval from the local governing body
 - vii. Status of construction contract
 - viii. Previous participation and capacity of development developer \ owner
- b. Priority #2: Priority will be given to developments that target particular distressed populations and/or lower rent levels. The following factors will be considered:
- i. Rent targeting
 - ii. Targeting of special populations, such as: special needs, homeless, veterans, workforce housing, elderly, or general LIHTC population
- c. Priority #3: Developments will be evaluated and prioritized based on NIFA's underwriting criteria as outlined in the 2009 LIHTC Qualified Allocation Plan. Long-term sustainability of the development and the efficient use of TCAP funds for the State of Nebraska will be assessed and weighted accordingly.

The following factors will be considered:

- i. Amount of tax credit investor equity
 - ii. Debt service coverage ratio
 - iii. Deferred developer fees
 - iv. Amount of TCAP funds per unit
- d. Tiebreakers: In the event of a tie between developments, the following criteria will be considered:
- i. The geographic distribution of the TCAP funds
 - ii. Housing market in the proposed community

iii. Score received in the LIHTC application process

APPENDIX III

SECTION 1602 GUIDELINES & SELECTION CRITERIA

1. Application Process:
 - a. NIFA will post a notification and application on www.nifa.org and www.recovery.nebraska.gov with application submission and award dates.
 - b. Section 1602 funds will be awarded competitively and pursuant to the terms and conditions of NIFA's LIHTC Qualified Allocation Plan.
2. Funding Priorities: NIFA will award Section 1602 funds for the following:
 - a. To replace a portion of the equity investment in a development that cannot obtain an equity investor for the full LIHTC award.
 - b. To provide gap financing for a development that has an equity investor for the full LIHTC award, but at a price lower than originally anticipated.
3. Selection and Ranking Criteria: Developments will be evaluated on each of the criteria set forth in Priority #1, #2, and #3 below. Developments will be ranked using a scale of "High", "Medium" or "Low".
 - b. Priority #1: Priority will be given to developments that can demonstrate the ability to expend their Section 1602 sub-award by December 31, 2010 and place the development in service by the required deadline under IRC Section 42. The following factors will be considered:
 - i. Construction timeline
 - ii. Year of LIHTC award
 - iii. Equity investor commitment for the LIHTC's
 - iv. Status of financing
 - v. Status of approval from the local governing body
 - vi. Status of construction contract

- vii. Previous participation and capacity of development developer \ owner
 - c. Priority #2: Priority will be given to developments that target particular distressed populations and/or lower rent levels. The following factors will be considered:
 - i. Rent targeting
 - ii. Targeting of special populations, such as: special needs, homeless, veterans, workforce housing, elderly, or general LIHTC population
 - d. Priority #3: Developments will be evaluated and prioritized based on NIFA's underwriting criteria as outlined in the 2009 LIHTC Qualified Allocation Plan. Long-term sustainability of the development and the efficient use of Section 1602 funds for the State of Nebraska will be assessed and weighted accordingly. The following factors will be considered:
 - i. Amount of LIHTC investor equity
 - ii. Debt service coverage ratio
 - iii. Deferred developer fees
 - iv. Amount of Section 1602 funds per unit
 - e. Tiebreakers: In the event of a tie between developments, the following criteria will be considered:
 - i. The geographic distribution of the Section 1602 funds
 - ii. Housing market in the proposed community
 - iii. Score received in the LIHTC application process

4. Terms of Section 1602 Sub-award:

- a. All developments receiving a Section 1602 sub-award will be required to execute an agreement that will stipulate a construction completion schedule.
- b. In the event a development is not meeting the construction completion schedule as specified in their Section 1602 agreement, NIFA will provide the development owner the opportunity to correct any outstanding issues

and NIFA shall determine if the development can still meet its completion requirements.

- c. NIFA will redistribute any Section 1602 funds that are not dispersed in accordance with a development's agreement to other eligible developments using the selection criteria outlined in Section III, above. NIFA will closely monitor the progress of each development receiving Section 1602 funds to ensure that it will meet the Section 1602 deadlines for dispersing funds.
- d. NIFA will assess an allocation fee of 1% of the Section 1602 sub-award.
- e. Development Owners will be required to report the following to NIFA at the end of each calendar quarter:
 - i. Number of construction jobs created and retained
 - ii. Number of non-construction jobs created and retained
 - iii. Total number of housing units constructed or rehabilitated
 - iv. Total number of low-income housing units constructed or rehabilitated
 - v. Any other federal reporting requirements per NIFA's request
- f. Developments receiving a Section 1602 sub-award will be subject to all procedures and requirements applicable to Section 42 of the Code, NIFA's Qualified Action Plan (QAP), and the Land Use Restriction Agreement.

5. Asset Management and Compliance:

- a. Developments with a Section 1602 sub-award will be required to adhere to the compliance reporting requirements of Code Section 42 and NIFA's QAP.
- b. Owners will be required to contract for asset management services at their own expense with an entity acceptable to NIFA and provide reports to NIFA as requested.

- c. Section 1602 funds are subject to recapture in the event of uncorrected noncompliance under Code Section 42. NIFA will initiate recapture pursuant to guidance issued by the Internal Revenue Service and the Treasury Department. Any recaptured Section 1602 funds become a debt owed to the General Fund of the U.S. Treasury Department and enforceable by all available means against any assets of the development Owner.