

Asset Management and Compliance Guidelines

Tax Credit Assistance Program (TCAP) and Tax Credit Exchange Program (Exchange)

- **Placed in Service Meeting:** As TCAP/Exchange funded projects near construction completion (approximately 90 percent of funds expended), KHC will coordinate a placed-in-service meeting with the development team. At these meetings, representatives from KHC's Multifamily Finance, Compliance, and Asset Management Departments will discuss the ongoing requirements of the programs, **as well as make the development team aware** of any still-needed outstanding close-out documentation. This meeting will take the place of the pre-8609 inspection that KHC conducts on Housing Credit (non-ARRA) projects.
- **Issuance of Exchange Form 8609:** Exchange guidance requires that a Form 8609 be issued for Exchange funds, similar to the Section 42 requirement to issue a Form 8609 for Housing Credits. However, the Exchange Form 8609 is not submitted to the IRS. The Exchange Form 8609 will be issued once the project owner has submitted all required documentation to KHC. KHC will not release any Exchange funded retainages until this documentation has been submitted by the owner. For Exchange projects without such retainages (per the Exchange loan closing documents), the Multifamily Finance rep will be responsible for ensuring receipt of such documentation. ARRA projects also allocated Housing Credit will follow KHC's already-established process to obtain their Section 42 Form 8609s.

Like Section 42 Form 8609s, a separate Exchange Form 8609 will be issued for each BIN.

- **Loan Servicing:** The affordability period for TCAP is based on the date the **last building** in the project is placed in service (ready for occupancy). According to recent guidance from the U.S. Department of the Treasury for the Exchange program, annual pro rata forgiveness will begin in the year following the year the last building was placed in service. Thus, if the last building in an Exchange project is placed in service in January 2011, the first 6.67 percent pro rata forgiveness will occur on December 31, 2012.

TCAP debt service payments and/or KHC maintained escrow payments will begin the month after the **last building** is placed in service (ready for occupancy). Owners will be encouraged to submit their close-out documentation as quickly as possible after the last building is placed in service so that any KHC-maintained retainage can be disbursed and the servicing functions can commence. For ARRA projects that are combined with Housing Credits, this may result in a differing compliance period if the owner selects to defer claiming credits for one year.

- **Disbursement of Exchange-Funded Developer Fee:** For projects allocated Exchange only and no Housing Credits (1 through 11 below), KHC will conduct the first year compliance review within one year of the placed-in-service date (ready for occupancy) of the last building in the project. Of the Exchange-only projects, all but Beattyville (2) have an Exchange-funded developer fee. The final installment of this developer fee is to be disbursed two years from the placed-in-service date (ready for occupancy) of the last building in the project, contingent upon no compliance issues. Projects 12 through 15 are Exchange projects (combined with Housing Credits) that also have an Exchange-

funded developer fee. These reviews should be conducted within two years of the placed-in-service date of the last building in the project.

1. Quad County
2. Beattyville School
3. KDVA Homes '08
4. Creek Bridge
5. Presidents Place
6. Taylor Mill Apartments
7. Warm Residences
8. Four Rivers (Centerpoint) Recovery
9. Oracle 64
10. Caneycreek
11. Bracken Creek
12. Hallmark Plaza
13. Prestons Crossing
14. St. Williams Apartments
15. KDVA Homes '07

- **Compliance Review Schedules:** KHC will conduct the first-year compliance review in accordance with Section 42 requirements for those ARRA projects allocated Housing Credits. Likewise, for TCAP and/or Exchange projects combined with Housing Credits, KHC will conduct a Management Occupancy Review (MOR) and Section 42 review each year for the first three years beginning after the initial review. After that time, if no concerns exist, KHC reserves the right to conduct such reviews less frequently. However, at no time will there be more than a three-year period without KHC conducting an MOR and Section 42 review.

For Exchange-only projects (no Housing Credits), KHC will conduct a MOR and Section 42 review each year for the first three years after the last building is placed in service. After that time, if no concerns exist, KHC reserves the right to conduct such reviews less frequently. However, at no time will there be more than a three-year period without KHC conducting an MOR review. Section 42 reviews will continue to be conducted annually on Exchange-only projects each year for the entire 15-year period. KHC reserves the right to conduct the annual Section 42 reviews via a desk review.

- **TCAP and/or Exchange combined with Housing Credits (Sample Size):** TCAP guidance states that a recapture event for TCAP only occurs if the minimum set aside (MSA) is not met at any time during the term of the loan. If this happens, the full amount of the TCAP loan may be subject to recapture. When conducting file reviews of TCAP projects (or Exchange combined with Housing Credit projects), KHC will use the same process used to monitor non-ARRA Housing Credit projects. The sample size will be 20 percent of the project files and never less than five units. If there appears to be evidence of a pattern of serious noncompliance, KHC will extrapolate a larger sample size, as needed.
- **Exchange Only (Sample Size):** Exchange guidance states that a recapture event for Exchange occurs when a project falls below the lesser of the applicable fraction per the Extended Use Agreement (EUA), or the percentage of Exchange funds in relation to total project costs. All of KHC's Exchange projects have an applicable fraction of 100 percent; thus the lesser percentage will be Exchange funds in relation to total project cost. For projects with Exchange-only funds, the percentage of files to be reviewed will be the percentage of Exchange funds in relation to total project cost. KHC will also use a "round robin" approach when selecting files to review to ensure that the same files are

not being reviewed each year. For Exchange-only projects, KHC will use this larger sample size each year in which a MOR is conducted. In years that only a Section 42 review is conducted, the sample size will be a minimum of 20 percent of the project files but not less than five units.

- **Submission of annual operating budgets and audited financial statements (AFS):** ARRA projects will be required to simultaneously submit annual operating budgets and AFS. This requirement is noted during the placed-in-service meeting. By keeping the submittal timeframe the same, KHC realizes that operating budgets will be submitted four months after the start of a new fiscal year. KHC will reserve the right to change this submittal due date, if warranted.
- **Depleted Asset Management Reserve:** If an ARRA project's asset management reserve is depleted before the end of the initial 15 years, KHC will "bill" the owner \$150 per unit, per year for the remaining term of the 15 years. This higher asset management/compliance fee is also applicable to any ARRA-funded Rural Development (RD) project. KHC will annually provide each owner with an analysis of the asset management account noting the balance at that time. KHC staff-incurred time and travel expenses will be charged to each ARRA-specific project. Documentation of such charges will be made available to the owners, as requested.
- **Post Year 15 Requirements:** After year 15, ARRA project compliance requirements will revert to KHC's post 15 year monitoring policies in effect at that time. Post 15 year compliance fee requirements will also become effective. Any funds remaining in an ARRA project's asset management reserve at the end of the initial 15 years will be applied toward these Post 15 year compliance fees.
- **Submittal of Income Certifications to KHC:** No ARRA project (including Exchange-only projects) will be required to submit initial income certifications of tenants to KHC for review prior to move-in.
- **Annual Re-certifications of Tenants:** For projects that are considered 100 percent Housing Credit projects (including Exchange-only projects), KHC will not require annual re-certifications of income. KHC will only require annual certification of gross rent and student status. KHC adopted this policy for Section 42 projects as allowable under the Housing and Economic Recovery Act of 2008 (HERA).