Tax Credit Assistance Program (TCAP) under the American Recovery and Reinvestment Act, 2009 Waiver of Statutory Requirements

Requirement: Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs; 42 USC Chapter 61; 49 CFR Part 24

Project/Activity: On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). The purpose of the Recovery Act is to jumpstart the nation's ailing economy, with a primary focus on creating and saving jobs in the near term. Section 2, Division A, Title XII of the Recovery Act appropriated $2.250 billion under the HOME Investment Partnerships (HOME) Program heading for a grant program to provide funds for capital investments in Low-Income Housing Tax Credit (LIHTC) projects. HUD will award Tax Credit Assistance Program (TCAP) grants to state housing credit agencies to facilitate development of projects that received or will receive LIHTC awards between October 1, 2006, and September 30, 2009. Since a major purpose of TCAP funds is to immediately create new jobs or save jobs at risk of being lost due to the current economic crisis, the Recovery Act establishes deadlines for the commitment and expenditure of grant funds and requires state housing credit agencies to give priority to projects that will be completed by February 16, 2012. Although TCAP funds were appropriated under the HOME heading of the Recovery Act, HOME program requirements do not apply to TCAP funds.

Nature of Requirement: The Uniform Act, passed by Congress in 1970, is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

Finding: The TCAP program grants authority to the Secretary of Housing and Urban Development to "waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the secretary or the use by the recipient of these funds . . ."

Because of the crucial time concerns regarding the use of the TCAP funds, the Secretary finds that a waiver is necessary to expedite the use of the funds. It is likely that most owners of projects eligible for TCAP funds did not anticipate TCAP funding at the time of displacement, so the Uniform Act does not apply. In projects with other federal assistance, the Uniform Act will continue to apply notwithstanding this TCAP waiver (for example, in projects receiving HOME funds). However for the small number of projects where resident displacement has not yet occurred and the Uniform Act would not be applicable absent TCAP funding, there is a strong likelihood that compliance with the Uniform Act could hinder the timely expenditure of TCAP funds and therefore frustrate the purpose of the Recovery Act. Therefore, this waiver suspends the application of URA requirements to these funds. Nothing in this waiver shall prevent grantees from using their existing relocation procedures (under state law).

Granted By: Shaun Donovan, Secretary

Signature: _____

Date Granted: MAY 4 2009