



# Affordable Housing Alert

## Developments in affordable housing law

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## HUD announces Recovery Act funding allocations for Public Housing Capital Fund and Community Development Block Grant programs

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On February 25, 2009, the U.S. Department of Housing and Urban Development (HUD) allocated almost 75 percent of the \$13.61 billion available to it under the stimulus bill, the American Recovery and Investment Act of 2009 (the Recovery Act). Although the Recovery Act was only signed into law on February 17, 2009, HUD was able to move quickly, due to its ability to apportion funds to state and local recipients by formula. HUD will allocate the remaining 25 percent of the Recovery Act's funds through a competitive application process. Detailed breakdowns by state are available on HUD's website: [www.hud.gov/recovery](http://www.hud.gov/recovery). The details with respect to the formula allocation of Public Housing Capital Funds and Community Development Block Grant Funds as set forth below.

- **Public Housing Capital Funds:** HUD allocated \$2.985 billion in capital funds to public housing agencies, to modernize and develop public housing. Agencies must give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to public housing authorities. Agencies must also give priority consideration to the rehabilitation of vacant rental units and capital projects that are already underway or included in the five-year capital fund plans. Agencies may not distribute these Recovery Act funds for operations or rental assistance, however. Agencies must obligate 100 percent of the funds within one year of the date on which funds become available to the agency for obligation and must expend at least 60 percent of the funds within two years and 100 percent of the funds within three years.
- **Community Development Block Grant Program (CDBG):** States and local government entities will receive \$980 million of allocations for their community and economic development activities. Grantees must prepare action plan amendments, and HUD will process the plans in an expedited manner, execute grant agreements, and make the funds available in each grantee's line of credit. Under the Recovery Act, recipients must give priority to projects that can award contracts based on bids within 120 days of the grant agreement.

In addition to the Public Housing Capital Funds and Community Development Block Grant funds, HUD made the following allocations.

- **Tax Credit Assistance Program:** State housing credit agencies will receive a total of \$2.25 billion in grants under the HUD HOME Investment Partnerships Program, to assist stalled projects to be financed with low-income housing tax credits. The housing credit agencies in each state shall distribute these funds competitively and according to their qualified allocation plans (QAPs). Projects awarded low-income housing tax credits in fiscal years 2007, 2008, or 2009 are eligible for funding, but housing credit agencies must give priority to projects that are expected to be completed by February 2012. TCAP program and applicable federal cross-cutting requirements will be established by notice and posted on HUD's Recovery Act website. The applicant must submit a "letter of intent" to participate to HUD within 15 days of the notice of funding availability appearing in the Federal Register and must submit a description of how it plans to award the TCAP funds competitively, based on its QAP, within 45 days of the notice. It is our understanding that HUD's position with respect to these funds is that they were not appropriated under the HOME program and therefore they are not subject to the general HOME requirements except as specifically required by the Recovery Act.
- **Section 8 Contracts:** To "avoid the payment disruptions that have occurred in recent years and enable owners to maintain their properties in an acceptable condition," 6,300 Section 8 project-based contracts will receive \$2 billion of funding for contract renewals on a full 12-month cycle.
- **Homelessness Prevention:** HUD will award just under \$1.5 billion to cities, urban counties, and states for grants targeted at individuals and families who would be homeless without such assistance. The funding allows grants by recipients to local governments and nonprofits for rental assistance, various forms of credit and housing counseling, and utility payments. The process for making awards shall be through a formula allocation, using the formula for the Homelessness Prevention Fund.
- **Native American Housing Block Grants:** Tribal entities will receive \$255 million of awards for new construction, rehabilitation, and energy retrofit of housing.
- **Lead Hazard Reduction Program:** HUD will award approximately \$100 million to control lead hazards through various grant programs.

If you have questions about these provisions, please contact Meghan Fennelly at 212-940-3732 or [mfennelly@nixonpeabody.com](mailto:mfennelly@nixonpeabody.com) or Michael Reardon at 202-585-8304 or [mreardon@nixonpeabody.com](mailto:mreardon@nixonpeabody.com).