

**ADFA Emergency Adoption of Rules Regarding its TCAP
And 1602 Exchange Programs Pursuant to A.C.A. §25-15-204(b)(1) and (g)(1)**

Funds awarded under the TCAP and Exchange program impose strict requirements on the recipient and ADFA. Many of the requirements are set forth in The American Recovery and Reinvestment Act, The American Recovery and Reinvestment Tax Act, Internal Revenue Code Section 42, and guidance issued by the Internal Revenue Service, HUD, and Department of Treasury, while the specific requirements implementing the programs are left to the states' housing finance authorities to develop and implement.

ADFA is the primary source of financing in the majority of developments awarded under this guidance. Thus, without the funds awarded hereunder, the affordable housing will be lost to the State. As a result, ADFA must balance its purpose of supporting development of affordable housing in Arkansas with its responsibility to administer TCAP and Exchange funds as a prudent construction financier. Accordingly, ADFA requires the recipient to provide information and documents prior to closing, for ADFA's review and approval.

The recipient must also meet the following additional pre-closing and post-closing requirements:

1. A payment and performance bond, or letter of credit in lieu thereof, in the amount of 40% of the construction contract amount must be obtained by the construction contractor on each development funded by TCAP or Exchange funds, for the protection of the federal funds awarded by ADFA to each such development from potential loss through recapture. Such payment and performance bond, or letter of credit, document must be delivered to ADFA prior to closing.
2. The recipient must provide copies of title insurance policies for the amount of the TCAP funds, the amount of the Exchange Funds and the amount of HOME Program funds if any, evidence of insurance (commonly referred to as an Acord 25) and a certificate evidencing the contractor's worker's compensation insurance. Post-closing, the recipient must provide ADFA with a copy of the Mortgagor's property hazard and general liability insurance policies.

Strict expenditure deadlines apply to both TCAP and Exchange funds. Without immediate implementation of this rule, ADFA will be unable to timely close any further TCAP or Exchange funding and this federal funding will be lost. Therefore, the rule stated herein, which is necessary to prudently administer federal funds and avoid potential loss of federal funds due to closing delays, is effective immediately pursuant to Ark. Code Ann. §25-15-204(b)(1) and Ark. Code Ann. §25-15-204 (g)(1).