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DATE: April 6, 2007
TO: Owners and Managers of Projects with Tax Credits Issued by Suballocators
FROM: Lyn Burton, Executive Director 

As compliance monitoring agent for your tax credit project, we are informing you that your Suballocator concurs with the date of January 1, 2008 for implementation of the IRS 8823 Audit Guide published January 2007 and with the rationale for this implementation date and other monitoring policy positions as outlined in the MHFA memo below. We will continue to monitor and report noncompliance based on the 2007 version of your Suballocator HTC Compliance Manual until 12/31/2007.

We will keep you informed throughout the year about upcoming training related to the IRS 8823 Guide.

Date: April 6, 2007
From: Housing Tax Credit Team
Renee Dickinson, 651-296-9491
HTC Compliance Coordinator
To: Tax Credit Owners and Managers
Subject: **HOUSING TAX CREDIT PROGRAM
IMPLEMENTATION PLAN FOR THE
GUIDE FOR COMPLETING FORM 8823**

IMPORTANT INFORMATION-
PLEASE READ CAREFULLY!

At the January 2007, tax credit conference held by the National Council of State Housing Agencies (NCSHA), the Internal Revenue Service (IRS) released its long-awaited Guide for Completing Form 8823 Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition (8823 Guide). The 8823 Guide does not change any Section 42 rules or policies. It is intended to provide definitions of what IRS considers "in compliance" and for consistency in reporting "out of compliance," and "back in compliance," on IRS Form 8823. IRS did not include an effective date for state agencies to make any needed adjustments to policies and procedures to the extent existing policy and procedure do not conform to the instructions in the 8823 Guide.

Most of Minnesota Housing's compliance, monitoring, and reporting policy and procedure are already reflective of instructions in the 8823 Guide, but there are some areas where adjustments must be made. After much discussion internally and with sub-allocators on the best approach and timeframe for implementing changes, our plan is:

1. For monitoring year 2007, monitoring and reporting noncompliance will be conducted per the current Compliance Manual.
2. Beginning 1/1/2008, monitoring and reporting noncompliance will be conducted according to instructions in the 8823 Guide.
3. The HTC Annual Compliance Program Update Training, to be held in October and November 2007, will be focused on changes to compliance requirements as well as monitoring and reporting procedures.

We examined the benefits and drawbacks of an earlier vs. later implementation, and feel this is the best approach for several reasons: (i) it will allow us to better understand the guidance provided and determine what changes need to be made to compliance and monitoring policy and procedure; (ii) discussions can be held with IRS, NCSHA, and other state agencies to resolve issues & questions; (iii) a thorough and thoughtful compliance manual can be produced; (iv) comprehensive training on changes resulting from the instructions in the Guide can be planned; and (v) it allows owners and managers sufficient time to implement changes and to train staff. In addition, this approach ensures that there will be consistency in compliance requirements and monitoring for all properties for the full compliance year 2007.

Owners deciding to make changes prior to 1/1/2008 must be aware that Minnesota Housing will continue to monitor and report noncompliance per the 1-07 version of the HTC Compliance Manual until 12/31/2007. However, owners are also subject to audit by Internal Revenue Service. While Minnesota Housing may not report what may be considered noncompliance under the 8823 Guide, the IRS may not agree. Compliance with the requirements of IRC Section 42, including guidance provided in the 8823 Guide, is the responsibility of the owner. Minnesota Housing's obligation to monitor for compliance with the requirements of Section 42 does not make Minnesota Housing liable for an owner's noncompliance.

Visit http://www.mhfa.state.mn.us/managers/HTCcompliance_manual.htm, for the 8823 Guide. Owners and managers should read the 8823 Guide and must make any needed changes to policies and procedures effective 1/1/2008.