2013 Annual Awards Entry Form
(Complete one for each entry.)

Entry Name NYC HDC & NYS HFA Joint Recycling Program

Fill out the entry name ***exactly*** as you want it listed in the awards program.

HFA NYC HOUSING DEVELOPMENT CORP. & NYS Housing Finance Agency

Submission Contact NORMAN GARCIA, PROGRAM INFORMATION OFFICER

Phone (212) 227-9841 **Email** NGARCIA@NYCHDC.COM

Program Contact JOAN TALLY, EVP FOR REAL ESTATE & CHIEF OF STAFF

Phone (212) 227-5500 **Email** JTALLY@NYCHDC.COM

AND MIRIAM ZUCKER, NYS HFA; 212.872-0314; MZUCKER@NYSHCR.ORG

Entry form with description, check(s), and visual aids (optional) must be received by NCSHA by **Monday, July 1, 2013.**

Use this header on the upper right corner of each page.

HFA NYC HOUSING DEVELOPMENT CORP. & NYS Housing Finance Agency

Entry Name NYC HDC & NYS HFA Joint Recycling Program

Communications	Homeownership	Legislative Advocacy	Management Innovation
☐ Annual Report ☐ Promotional Materials and Newsletters ☐ Creative Media	☐ Empowering New Buyers ☐ Home Improvement and Rehabilitation ☐ Encouraging New Production	☐ Federal Advocacy ☐ State Advocacy	☒ Financial ☐ Human Resources ☐ Operations ☐ Technology
Rental Housing	**Special Needs Housing**	**Special Achievement**	**Are you providing visual aids?**
☐ Multifamily Management ☐ Preservation and Rehabilitation ☐ Encouraging New Production	☐ Combating Homelessness ☐ Housing for Persons with Special Needs	☐ Special Achievement	☐ YES ☐ NO

Management Innovation/Financial: Joint NYC HDC/NYS HFA Joint Recycling Program

INTRODUCTION

The New York State Housing Finance Agency and the New York City Housing Development Corporation continually rank as the top two multi-family housing issuers in the Nation. Together, HFA and HDC's bond issuances in 2012 accounted for 47% of the total market share among all multi-family bond issuers in the country. New York's strong rental market has produced a demand for affordable housing that goes unabated even with the thousands of units financed by the two agencies year in and year out.

The main bond financing program used by HFA and HDC to finance affordable housing is private activity bond volume cap which generates as-of-right 4% tax credit equity. The State of New York is allocated approximately $1.8 billion of private activity cap annually. Each year more than 80% of the State's private activity bonds are issued for the financing of multi-family housing by HFA and HDC; further, the two agencies always use the State's new and carryforward allocations—no bond volume cap authority goes unused in the State. The demand is so high for volume cap, that HDC and HFA have undertaken a collaboration to maximize this important resource for the benefit of both agencies and the production of affordable housing overall. In the creation of the "HDC/HFA Joint Recycling Program" described below, the two agencies have joined forces in an innovative way to leverage each other's resources and maximize the production of additional affordable units.

BACKGROUND

NYC HDC's Recycling Program

Pursuant to the Housing and Economic Recovery Act of 2008, enacted July 30, 2008 ("HERA"), HDC has instituted its Recycling Program. Under this Program, HDC is able to recycle loan prepayments it receives from bond financed projects into new loans to other borrowers for different projects. This is accomplished through the issuance of new bonds which, pursuant to HERA, for federal tax purposes, are treated as refunding bonds for the bonds that financed the original project. In this manner, the new project can be financed without the allocation of any additional volume cap. The recycled bond-funded loan does not bring any as-of-right tax credits so it has mostly been used in non-tax credit financings, or in tax-credit developments that have loan amounts greater than 50% of a project's total development cost (the maximum amount of new volume cap needed to generate 4% as-of-right tax credits).

HDC's lending activities generate approximately $150 million to $200 million in recycled bond cap per year which is available for new lending.

The NYS HFA Program

HFA issues bonds to fund mortgage loans for affordable and mixed income projects throughout the State of New York. Given HDC's effectiveness in financing affordable housing, HFA has focused its New York City efforts on financing large, job generating multi-family "80/20" developments with 20% low income units and 80% market rate units (the "HFA Program"). HFA's bonds are sometimes issued in a single issuance but may also be issued in "tranches" over a two or three year period pursuant to its multi-year program authorized by the Private Activity Bond Allocation Act.* The Agency typically funds approximately 70% of the project costs with volume cap. Since HERA, HFA has also layered in recycling bonds into the capital structure; however HFA programs do not generate recycling bonds in an amount sufficient to optimize the mix of new volume cap and recycling cap.

THE PROPOSAL

In 2012, HDC and HFA entered into an arrangement whereby HFA projects could be financed utilizing HDC's excess recycling capacity. Particularly for the 80/20 developments, this arrangement helps conserve new volume cap going to loan amounts above the 50% test, thereby making it available to finance more low-income units across the City and State. <u>Since implementing the Joint Recycling Program in Fall 2012, HDC has "transferred" to HFA $131.5 million in recycled tax exempt authority which HFA has used to fund partial loan amounts in five developments, thereby preserving a like amount of new private activity cap for new affordable deals.</u>

IMPLEMENTATION

In conjunction with HFA and HDC bond counsel, the agencies developed a straightforward approach to transferring recycled bond capacity.

In the typical HDC recycling transaction (as described above under "HDC's Recycling Program"), HDC's bonds are treated as "new money" bonds for State law and Resolution purposes but are treated as refunding bonds for Federal tax purposes and therefore do not require a volume cap allocation. As a federal tax law matter, HFA can issue refunding bonds for HDC financed projects. Accordingly, in the recycling context, HFA can play the role that HDC has previously played. Specifically, (i) HDC receives prepayments from projects previously financed with HDC Bonds (the "Original HDC Bonds") and deposits such prepayments with its bond trustee, (the "HDC Trustee"); (ii) HFA issues new bonds (the "HFA New Bonds") and deposits the proceeds with its bond trustee (the "HFA Trustee") in its bond proceeds account; (iii) HDC instructs the HDC Trustee and HFA instructs the HFA Trustee to exchange such HDC prepayment amounts for an equal amount of HFA bond proceeds; (iv) the HDC Trustee then redeems the Original HDC Bonds that had financed the projects which had prepaid (such redemption to occur no more than ninety (90) days after the issuance of the New HFA Bonds); and (v) HFA applies the amount in the HFA bond proceeds account to the making of a new mortgage loan to its borrower for a new project (such loan to be made not more than six months after receipt by HDC of the prepayments of its previously financed projects).

In this manner, the New HFA Bonds are treated as having refunded the Original HDC Bonds for Federal tax purposes. For State law and Resolution purposes, the New HFA Bonds are treated as "new money" (and not refunding) bonds, so that, for example, such New HFA Bonds would need to be counted against HFA's statutory bond cap for its bonds under the HFA Enabling Act. All restrictions applicable to recycling bonds are applicable to the New HFA Bonds. In addition, the recycling bonds do not generate low-income housing tax credits for the financed project, thus making them most useful to fund loan amounts above the amount needed to generate tax credits.

This approach has been a simple, elegant way to make HDC's recycling opportunities available to HFA. The result being that HFA issues its own bonds, with its own standard documentation and regulatory regime, but does not have to allocate new money volume cap to such bonds. To date, the collaboration has conserved $131.5 million in volume cap that has been made available to finance approximately 800 or more low income units in New York City. The two agencies expect to finance an additional $150-$200 million through the end of the calendar year.

HDC and HFA are pleased to be working in an innovative and collaborative manner in an effort to leverage the resources available in the State of New York to the benefit of affordable housing production State-wide.