



California Debt Limit Allocation Committee

CDLAC
Committee Meeting
Wednesday, January 19, 2022
11:00 AM



CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

915 Capitol Mall, Suite 311
Sacramento, CA 95814
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www.treasurer.ca.gov/cdlac

MEETING NOTICE

AGENDA

MEETING DATE:
January 19, 2022

TIME:
11:00 AM

LOCATION:
915 Capitol Mall, Room 587
Sacramento, CA 95814

BOARD MEMBERS (voting)
FIONA MA, CPA, CHAIR
State Treasurer

BETTY YEE
State Controller

GAVIN NEWSOM
Governor

ADVISORY MEMBERS (non-voting)
GUSTAVO VELASQUEZ
Director of HCD

TIENA JOHNSON-HALL
Executive Director of CalHFA

DIRECTOR
NANCEE ROBLES
Interim Executive Director

Members of the public are invited to participate remotely via TEAMS or telephone.*

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Public Participation Call-In Number
(888) 557-8511
Participant Code:
5651115

The Committee may take action on any item.
Items may be taken out of order.

There will be an opportunity for public comment at the end of each item, prior to any action.

1. Call to Order and Roll Call

Action Item **2. Approval of the Minutes from December 6, 2021, December 8, 2021, and December 22, 2021**

Informational: **3. Executive Director's Report**
Presented by: Nancee Robles

Informational **4. Carryforward Update**
Presented by: Nancee Robles



CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

Action Item **5. Consideration of Extension Request for Qualified Residential Rental Project Allocated in 2021**

Presented by: Nancee Robles

<u>Project #</u>	<u>Project Name</u>
CA-21-580	Crest on Imperial

Action Item **6. Adoption of the 2022 State Ceiling on Qualified Private Activity Bonds**

Presented by: Nancee Robles

Action Item **7. Adoption of the 2022 Committee Meeting Calendar and Award Schedule**

Presented by: Nancee Robles

Action Item **8. Adoption of Allocation Apportionments of the 2022 State Ceiling**

Presented by: Nancee Robles

Action Item **9. Adoption of the Qualified Residential Rental Program (QRRP) minimum Point Threshold for the 2022 Program Year**

Presented by: Emily Burgos

Action Item **10. Adoption of Permanent Regulations**

Presented by: Emily Burgos

Action Item **11. 2022 Regulations Discussion**

12. Public Comment

13. Adjournment

FOR ADDITIONAL INFORMATION

Nancee Robles, Interim Executive Director, CDLAC
915 Capitol Mall, Room 485, Sacramento, CA 95814
(916) 654-6340

This notice may also be found on the following Internet site:

www.treasurer.ca.gov/cdlac



CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

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Full TEAMS Link

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTA5Njc3NmMtNjY1My00ZmFkLWE1MWYtNGJINjAxYWY5ZjZi%40thread.v2/0?context=%7b%22Tid%22%3a%223bee5c8a-6cb4-4c10-a77b-cd2eaeb7534e%22%2c%22Oid%22%3a%226f508fe0-4cf8-4f2f-9e3d-4a9f8e1c293f%22%7d



AGENDA ITEM 2

**Approval of the Minutes from
December 6, 2021, December 8, 2021, and
December 22, 2021**



California Debt Limit Allocation Committee

915 Capitol Mall, Conf Rm 587
Sacramento, CA 95814

December 6, 2021

Committee Meeting Minutes

1. Agenda Item: **Call to Order and Roll Call 9:00 am**

Voting Members:	Fiona Ma, CPA, State Treasurer Tony Sertich for Betty T. Yee, California State Controller Gayle Miller for Governor Gavin Newsom
Advisory Members:	Gustavo Velasquez for the Department of Housing and Community Development Tiena Johnson-Hall for the California Housing Finance Agency

This is a continuation of the November 29, 2021 committee meeting.

2. *This agenda item was discussed at the November 29, 2021 Committee Meeting.*

3. Agenda Item: **Committee Discussion Regarding Tiebreaker** – Presented by Nancee Robles

The committee had gone through a majority of the 2022 policy framework at the first portion of this meeting, which included the State Treasurer Office's, Administrations, and the State Controller Office's recommendations.

The Treasurer asked Caleb Roope from Pacific Companies and the Working Group to share some calculations the group had done. He stated they did some analysis of the rent savings. At a high level, as it is at 15 years is significant in the overall weight of the public benefit category. It creates two issues. The first is a strong incentive to deeply target all units as much as possible, which means getting soft money from a different source which creates higher cost projects, leading to lower production. The second is there are certain parts of the state that have a meaningful difference between fair market rents (FMR) and tax credit rents, as a result those areas will have an advantage, leading to those areas being targeted. It is not just the Bay area with high FMR, but also the Inland Empire. As a developer of the area, those areas will have an advantage in a system where rent savings are measured. Mr. Roope acknowledged it is a complicated formula with many "push and pull" opportunities. There are some issues that need to be worked out, with these two being the main ones identified.

The Treasurer specified the recalculation has been a discussion topic for about six months with the potential of unforeseen consequences. The last three years have been spent trying to put CDLAC and CTCAC under one ownership and there have been issues with emergency regulations, and may not be available for use since they will be complicated to write, and come with staff training and IT implementation, etc. The Treasurer would prefer the current formula be tweaked since the developers have repeatedly asked for consistency. Changing everything may cause confusion not only for staff, but developers as they manage their pipeline for next year. The Treasurer stated there

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are talks about whether or not to have two or three application rounds in 2022, and if it would be possible for the first round to be under the current regulations with the second two under the new regulations. It may not go toward building in high-cost areas, ELI/VLI, new constructions, with the new rent savings category. She asked if it may be easier to tweak the system to accommodate parts of the state that are more costly to build.

Mr. Sertich stressed the need to get the regulations right, that this was put in to the 2020 regulations so there has been ample time to prepare for it. The priorities that were outlined were consistent with affordability and equity, developing high/highest opportunity areas, with transit being the driving force. He reiterated what Ms. Miller had been saying over the last several months about when there are 3-4 time more applications than bonds available, the committee needs to ensure those decisions are driving the policy and priorities of the committee. Additionally, the measurement needs to be as efficient as possible to drive the most public benefit as possible, since resources are limited. Mr. Sertich pointed out they are working to make bonds and tax credits more efficient, not taking into consideration outside funding sources. In an ideal world, all of those would be taken into consideration and be made more efficient. He believes it is important to make a decision soon before it is too late.

Ms. Miller agreed with Mr. Sertich. She reiterated the Administration remains committed to ELI/VLI, though understand all kinds of housing are important. She pointed out three levers. One is the equation and stated no one piece by itself does not make sense since there are ways to correct it. She expressed concern that not everyone has all the information. She urged the committee to not just look at rent savings, but also the other pieces to correct for it. She stressed the importance of a tiebreaker. The second lever is the pools, which is how to correct for the tiebreaker. She said there isn't enough ELI/VLI and are trying to encourage it while maintaining a cost benefit. Lastly, the scoring system will be reviewed for overcorrections in a year, to make sure it is working the way the committee wants it to. The equation works together, and there needs to be a pool discussion to correct those issues, and all of the information needs to be posted on the website with the most current information.

Mr. Velasquez agreed with Ms. Miller, and stated he believes his purpose with the committee is to provide real-time data from what the housing market is experiencing, as well as emphasizing the Administration's priorities. There was a report last week looking at incomes and levels of affordable units stating families earning 50% or less of the area median income (AMI) can only afford housing in 3/58 counties. If a family earns 30% of the AMI, no counties in California offer affordable housing. He encouraged the committee to look at the priorities. There is a concern about the different costs of the regions. The issue is underproduction of deeply affordable units in the market. To prevent and control this issue, there has been a historic allocation from the governor and the president of \$2.2 Billion for affordable housing. He urged the committee to look for ways to close the gap.

Ms. Johnson-Hall stated she wanted to spend more time going over the spreadsheet provided by Mr. Roope. She agreed with Mr. Velasquez and the need to focus on how many units can be provided each year. The total number of units produced each year, which has reduced significantly over the last few years. This may go down more depending upon what regulations are decided upon by the committee. All units across affordable housing need to be looked at, on all levels. If they can get people at the 50% range, there would be some added value. The committee needs to maintain balance and look at units across units of the affordable housing community. It's important to not



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have some parts of the state have a significant advantage so the needs of Californians throughout the state can be addressed.

Public Comment:

Doug Shoemaker with Mercy Housing and the working group wanted to clarify the working group has not had enough time to discuss the potential changes. He believes keeping the current system does not make sense. He pointed out everyone has a different definition of balance. He would treat units at \$1000/month savings different than units at \$300/month savings. The unit that is closer to transit is more important than one farther away. The ones that serve homeless is more important. Therefore, not all things are equal, so there needs to be a range. If the committee is concerned about an overcorrection, pools are the best bet to safeguard against it. When talking about cost and production, the committee is talking more about the prevailing wage around the state. He wanted to acknowledge the urban higher cost areas around the state put money in to deals driving the prevailing wage. It is nearly impossible to create homeless, ELI/VLI, 40% AMI, etc units without additional soft costs. As a developer who mostly deals in prevailing wage environments, Mr. Shoemaker expressed the state determined if developers use public funds, it triggers prevailing wage. The production number is driven by prevailing wage. If ELI and homeless populations are going to be served, soft money needs to be used. He said it was difficult to hear the committee wants to keep production levels as high as possible yet serve those populations since they are at odds. Prevailing wage tends to be the difference of the cost in those regions, making it difficult to achieve the income goals. He stated the committee wanted to talk about the fundamental drivers and pretend they can have it both ways but does not believe it works that way. He believes the pools should be used more profoundly.

Caleb Roope wanted to echo Mr. Shoemaker and add he values a rent savings of \$1000/month over \$300/month, however the question is how many units that's worth. If that is the only comparison, that's an easy choice. If the committee wants to continue down the path, the working group will continue doing what has been asked of them. He stated when he's speaking, it's more as a proprietor than a member of the working group. The working group was not going to take other agency's funding into the equation. The initial equation the Controller's Office came up with counted all the public benefit and the resources it took to create that benefit. Taking one thing away makes it start crumbling. There is still the local issue, where the state may become disadvantaged when they step in. If it is the committee's goal to get projects through the HCD shoot, then it may be beneficial to create a pool for that. It could be similar to the homeless set aside where it wins first. Stakeholders tend to support systems that have balance across them. The committee wants to keep production high, create balance, address ELI/VLI which is critical, and not just create a system to drive down rents so the projects win no matter what category they're in. There are different developers who don't use this model but will be forced to in order to compete. He encouraged the committee to focus on the pools and set asides. If there is going to be a tiebreaker, he encouraged the committee not to remove the pillar of public benefit and what produces it. There are some adjustments that can be made with the denominator, cap rent savings, etc, but believes it is becoming a ship continuously sprouting leaks.

Mr. Sertich stated rent savings was one way to assess the value of a 50% AMI unit is and the value of a 30% AMI unit. What the state is putting in, should produce that much benefit, for example if the



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states puts in a million dollars, there should be a million dollars' worth of public benefit. The committee has been discussing the length of rent savings, and stated he was pondering on the life span of those buildings. In some cases, it may be 30, some it may be 15, and depends on the building itself, and the financial resources of it. This is why 15-20 years of rent savings is reasonable, comparing it to the costs.

The Treasurer touched on deeper rent savings, where building owners may not be willing to put money into improvements, so asked if bonds would be allocated for rehabilitation projects. Without those rehabilitation funds, buildings quickly fall into disrepair.

Mr. Sertich acknowledged it is up to CTCAC and HCD staff to do asset management on these sites to make sure they are being kept up, and they have been doing a good job of it. He discussed placing requirements on these projects as a way to extend the life on the projects. Mr. Sertich stated there are at least 15 years [of public benefit] in these projects, and if it fails in that time period, there is something else wrong with the project.

The Treasurer reiterated there have not been many allocations to rehabilitation projects over the last several years, which may cause an issue further down the line.

Ms. Miller suggested the conversation move toward concluding some of these issues. She specified the equation, and timing are decisions that should be made now since developers will adapt and then the committee can come back to revisit to see if there was an overcorrection. She suggested discussing the "how and when" the tiebreaker will go in to affect.

Ms. Robles stated it would take effect when the regulations are drafted and go to the committee for approval. At that time, Staff can file an emergency regulation package with the Office of Administrative Law (OAL) and it would be approved in 5 days. The timing of this is dependent upon the January 19, 2022 meeting. Staff will propose to take all of the emergency regulation packets to OAL and turning them in to permanent regulations. These need to be put in place before the next emergency regulations can be put in place. Permanent packages can take up to 6 months to be approved by the OAL, which puts the timing at mid-year at best. Ms. Robles had proposed if the committee wanted three rounds next year, to make one small change to regulations. The regulations currently state before funds can be allocated; a tiebreaker needs to be altered. If that regulation is changed in the way of an emergency package, it would state the tiebreaker needs to be put in place by June 30, 2022. At that point, the first round would be under the old regulations and the last two rounds under the new regulations. Alternatively, the committee could decide to have only two rounds. One would be midyear, and one in the fourth quarter.

Ms. Miller stated Ms. Robles' proposal makes sense, given the time constraints. Having one round with the current system and two with the new system could ease the transition since there is much concern about the transition. She sees it as a compromise from where the committee was, and it is a sign of good faith that the old system is important but are also committed to a new system to prioritize ELI/VLI. It indicates the committee is committed to the system at large, while allowing more time to review the tiebreaker. She urged the committee members to make a decision on the tiebreaker and favors this to be the timeline for the next 6 months.

Mr. Sertich agreed with moving in this direction but expressed concern about staff workload.

Ms. Robles stated it would be easier for staff to do three rounds, and the Treasurer agreed this would be easier for stakeholders so they won't have to wait until mid-year to submit applications.



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Ms. Johnson-Hall shared Staff may want to consider how this may affect the pools since the last two rounds would be under different rules than the first round.

Ms. Robles indicated Staff are aware of this and are looking into it.

Doug Shoemaker with Mercy Housing and the working group shared they are in support of Staff's proposal.

Mr. Sertich pointed out the second-round applications may be due before July 1st, 2022.

Ms. Robles clarified this decision will change the calendar being proposed at the following scheduled and agenda meeting.

William Leach with Kingdom Development appreciated the committee's hard work. He asked how state credits would be handled in light of the proposed changes, if they would be split evenly between rounds, or use the same practice of first-come-first-served. He believes splitting it up may make more state credits available when the new rules are in place, otherwise more than half may be used in the first round.

Ms. Miller pointed out that is something that would need to be taken up in the CTCAC committee meeting.

Melissa Fox stated she has done a lot of work for affordable housing. She stated they are concerned the tiebreaker is not taking Coachella Valley into consideration and giving them a fair playing field based upon the regulations out there. Ms. Fox stated there is currently no improvement of positions based upon the regulations as they stand. She went on to say they will continue to work to see if it can be done to show what is needed in the Imperial Valley and Coachella Valley.

Heather (indiscernible) from the Inland Empire and Coachella Valley wanted to echo Ms. Fox's comments. They are concerned with the tiebreaker and the scoring in general since it disadvantages their area with the proposed regulations, specifically regarding TOD and transit. She stated it has not been a level playing field for the Inland Region and recommended increasing the rural set aside.

(indiscernible) from Coachella Valley and the Inland Empire wanted to echo what was previously said. They are requesting funding be distributed in an equitable manner. The Speaker stated in the Inland Empire jobs are limited and the housing costs are high based upon the wages and encouraged the committee to distribute funds in an equitable way.

MOTION: Ms. Miller motioned adopt 3 rounds in 2022, the first round with existing regulations, and the last two rounds with the tiebreaker, and amend the regulations to require a tiebreaker be in place by June 30, 2022. Mr. Sertich seconded the motion.

Motion passed unanimously via roll call vote.

Ms. Miller moved for the rent savings benefit of 15 years, stating it should not be considered in isolation.

Mr. Sertich expressed concern about getting away from comparing the counties and wanted to balance the bonds across the geography. Within the counties, using FMR is going to drive production to the lower cost areas. He mentioned they are driving toward the high resource areas, but also to the lower cost areas with this outcome. Originally the committee had used small area FMR but is looking for how to drive the development into the areas within the counties where they want it, specifically the larger counties of the state that have more geographic diversity, and also significant cost differences.



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Ms. Miller pointed out there are some ways to do that, if they were to agree on 15 years of rent savings, it would drive some of those decisions.

Mr. Sertich clarified he was supportive of 15 years.

With how to deal with the denominator, Ms. Miller stated the committee seems to agree with bonds and state tax credits. There were two other issues on the threshold basis limit delta, and the points for prevailing wages in types 1 and 3 developments. Those things in the denominator can act as a correction. The basis limit delta can act as a correction for some of the intra-county discrepancies. The other way to correct is to keep the location benefits in the numerator, with the TOD and proximity to transit.

Mr. Sertich added there is no good way to measure job-rich areas or where people want to live. He encouraged the committee to consider a zip code level instead of a county level regarding costs and decide from there how to determine FMR. Given that the regulations won't be in effect until July, there is time to figure that out. Mr. Sertich pointed out they want to get it as right as possible, but it will never be perfect, and does not want development to be focused in only one area of the counties.

Ms. Miller clarified 15 years with FMR at the county or smaller level than county.

Mr. Velasquez added his team has done small area FMRs precisely for reasons such as the committee's decision. He stated smaller areas make sense.

William Leach of Kingdom Development stated the small area FMR is helpful in accuracy for these decisions. He mentioned have the regulations smooth out outliers, such as saying a certain small area FMR cannot be more than 150% of the FMR. There can also be caps implemented to further smooth those out. Mr. Leach said his team did an analysis all the projects in the tax credit program trying to find intercounty differences. The census looked at population density within a certain distance and found a strong significance in the cost to build and the population density within a mile of the site.

Ann Silverberg of the working group, wanted to make a counter point that the small area does balance out the difference of costs, but exacerbates the differences in income levels. She used Northern California as an example, stating Oakland would be disadvantaged to Fremont, but there might be proximity to transit and other amenities driving the importance of housing in that area, so the numerator may be how to balance it.

Mr. Sertich mentioned one concern is this would disadvantage areas that are historically underinvested and believes revitalization benefits can help ensure they are building in all areas of California.

Darren Bobrowsky with USA Properties Fund and the working group wanted to comment on rent savings and consider a floor otherwise there will be a race to the bottom which would impact housing as well as a long-term financial feasibility. Mr. Bobrowsky went on to say at a certain point in the future that the project has declined and turned negative. He suggests setting a floor for rent savings of a certain AMI or average AMI to increase production and preserve the financial feasibility. Mr. Sertich added that was in the proposals, to have a floor of 40% AMI average, and is comfortable with that.

Ms. Miller agreed with the floor as well.

Caleb Roope of the Pacific Company and the working group stated the working group discussed the issue. They agreed against small area market rents because there are massive disparities within the



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counties, which the feared would drive development to those areas. If there was a project in a low small area FMR, there would be no path forward, being beat out by projects with higher small area FMRs. Mr. Roope stated measuring 15 years of rent savings when evaluating differences of thousands of dollars, it compounds quickly. There would not be a major cost difference in those areas. The example he gave was Oakland in low-income census tract with low FMR will not be that much different than building in Walnut Creek where small area market rents are very high, where the cost to build are about the same, but the FMR in Walnut Creek is much higher, which is why the working group agreed on using just the FMR.

Mr. Sertich stated getting the public benefit rather than the cost equity, and some of the issue is double counting some of the benefits. FMR are higher closer to transit, and smaller FMR are higher closer to higher resource areas, and the places people want to live have higher small area market rent. He believes it should be balanced by averaging it out and the other categories should be properly accounted for so we don't over-credit the high transit or high resource areas.

William Leach expressed it may be a good idea to blend the two ideas by taking 75% of the numbers from the FMR and 25% from the small area market rent. This would look more toward the county wide but take in to account the specific areas.

Analisa Valdez from Indio in Coachella Valley wanted to reiterate what other callers have said. She stated Riverside County has one of the highest shortages of rental units in the United States, with much of it being in Coachella Valley. Ms. Valdez shared much of the housing are single family homes, and many families are being displaced, forced to move to other parts of Coachella Valley, sometimes to the unincorporated communities. Those communities sometimes lack infrastructure like potable water, sidewalks, sewage, etc. They are hoping for more equitable housing there.

[indiscernible] wanted to reiterate the importance of student housing in the Bay Area since the cost of living is high. As for the rent savings benefit, she encouraged the committee to be consistent across the board and agreed with the working group on FMR.

Mr. Roope pointed out the committee has funded approximately 400 units in Indio over the last couple rounds so wanted to encourage the caller that rental housing is coming.

Ms. Miller motioned for 15 years FMR with a 40% AMI.

Mr. Sertich seconded the motioned, with the understanding they will watch that the projects are being put in to place in the counties they want them to be placed.

The Treasurer agreed they want balance across the state.

Mr. Sertich clarified this means, not building primarily in one area.

MOTION: Ms. Miller motioned for 15 years FMR with a 40% AMI. Mr. Sertich seconded the motioned.

Motion passed unanimously via roll call vote.

Ms. Miller pointed out there is population, location and public benefit to review.

Mr. Sertich specified unit production was also needing to be reviewed and reminded the committee they had agreed on \$50,000 per adjusted unit at 80% AMI or below.

Public Comment

[indiscernible] heard about the rent savings benefit and the floor being capped at 40% AMI. She



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wanted to bring to the committee the implement of supportive housing and looking at population benefit. She is concerned the production will go mostly to large family and not so much go to permanent supporting housing units as is currently in the tiebreaker.

MOTION: Mr. Sertich motioned for \$50,000 per adjusted unit at 80% AMI or below. Ms. Miller seconded the motion.

Motion passed unanimously via roll call vote.

Regarding public benefit, Mr. Velasquez agreed with the values on the table which state ELI \$50,000, VLI \$30,000, veterans \$10,000, homeless \$20,000, and special needs \$10,000.

Mr. Sertich stated ELI and VLI already get credit with rent savings, especially in comparison with homeless which comes with additional costs and services, so those number may need to be evaluated. He asked if there was a need for VLI benefit since there is rent savings. There could be some value in having a VLI benefit with the rent savings at 40% AMI.

Mr. Sertich agreed the homeless benefit could be increased.

Ms. Miller agreed the homeless benefit should be increased.

Mr. Sertich clarified he believes the ELI benefit should stay but eliminate the VLI benefit since it is getting full credit in the rent savings and increase the homeless benefit to between \$30,000 and \$50,000.

Ms. Miller asked what Mr. Sertich's ideas were on the homeless benefits since there are five categories.

Mr. Sertich reiterated he would zero out the VLI benefit since that is getting full credit in rent savings, keep the ELI but put a limit on rent savings at an average of 40% AMI, but believes it should be less than \$50,000.

Ms. Miller pointed out eliminating VLI gives \$30,000.

Mr. Velasquez suggested putting ELI at \$40,000 and homeless at \$30,000, but keeping the rest the same, eliminating VLI.

Caleb Roope with Pacific Companies and the working group asked if ELI and VLI was under a 5-year scenario in an attempt to stabilize the variances. If it is 15 years of rent savings, it wouldn't need to be calculated in.

Ms. Miller specified there is a floor, and in some ways acts as a substitute for the lower number in the rent savings. If eliminating VLI, there is a need to keep ELI. She asked for Mr. Sertich's opinion on Mr. Velasquez's suggestion.

Mr. Sertich specified a need for these concepts to work together.

Mark Stivers of the California Housing Partnership asked for clarification on the rental assistance. He suggested if there is to be an ELI rent benefit, to include units with rental assistance or have the floor for rent savings benefit be 40% for non-rental assisted units and all rental assistant benefits be 30% AMI.

Doug Shoemaker with Mercy Housing and the working group referred to HCD regulations, pointing out the importance of serving extremely low-income families who are at risk for homelessness. It is difficult to get to those families if there is too much emphasis on permanent supportive housing (PSH), without taking into consideration families who are not considered chronically homeless, so don't show up in the PSH system. He agreed with Mr. Sertich that the committee needs to review if



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these things are mutually exclusive of each other, or cumulative to each other. His concern is a point system that does not have an incentive to serve extremely low-income families, unless they are homeless. Those definitions are clear. Mr. Shoemaker pointed out 90% of the counties they work in, which is about 85% of the state, don't have families in their No Place Like Home lists, only single adults. If there are population benefits, he believes ELI should have its own value, without giving too much incentive for homelessness. If giving a value to homelessness or ELI, he recommended giving a modest amount to both so developers don't have to choose one or the other based upon values, which would allow at risk families to be better served. He clarified giving around \$10,000-\$20,000 for each, instead of each being a higher amount, to level them out.

William Leach of Kingdom Development recommended population benefits have a maximum. He gave the example of having 50% of the units achieving the population benefits, that would honor the Olmstead decision to not concentrate people of certain populations. It would also slow down the behavior of trying to maximize the system to get the best score possible, and still have integrated living situations.

Mr. Sertich agreed with Mr. Leach that one of the pieces in the pools is the priority for 100% homeless and encouraging more mixed developments.

Mr. Velasquez said they had considered that.

Mr. Sertich stated it may be a good idea to cap it at 50% of units for homeless or ELI to promote more mixed communities.

Ms. Miller stated she does not like the idea of a cap.

Mr. Sertich clarified this was specifically regarding PSH and being cautious to not concentrate those populations in projects. He believes they need to be more thoughtful in creating more living opportunities for different populations and integrating various communities. It is not limiting the projects to being 100% PSH but is also not incentivizing them to be at 100%. He clarified it would be a cap at 50% for population benefit.

Ms. Miller agreed with the 50% idea.

Mr. Sertich believes it should be \$20,000 for homeless \$10,000 for veterans, \$20,000 for ELI, \$0 for VLI, and \$10,000 for special needs.

Ms. Miller brought up the issue of homeless vs VLI, and the possibility of it being an "or".

Doug Shoemaker with Mercy Housing and the working group said that is what he was trying to convey, if a homeless person is being served and getting a rent subsidy, it gets a homeless and ELI designation.

Ms. Miller requested clarification on what Mr. Sertich was recommending.

Mr. Sertich recounted Mr. Stiver's past comment on having projects with rental subsidies to go beneath the floor of \$40,000. The goal is to have financially feasible projects and would like to think through some of the other pieces in terms of equity, and not layer on multiple resources in order to make a project feasible.

Mark Stivers of the California Housing Partnership wanted to elaborate on veterans, special needs, and homeless. He urged the committee to consider veterans and homeless as an "or" so not all homeless units are also considered veteran units. There are many other people who are homeless, so making this an "or" would solve that problem.

Ms. Miller circled back to ELI, saying with the 50% test, there needs to be \$40,000 for ELI, and is okay with \$10,000 for homeless.



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Mr. Velasquez wanted clarification on \$0 for VLI and \$40,000 for ELI, getting the credit down to 40% AMI as an average.

Mr. Sertich explained ELI gets a large portion of the rent savings benefit, and they are giving additional benefit at the end of the calculation, so need to be careful to not over-value it. The average rent savings would be in the \$100,000 range, depending on all the factors.

Ms. Miller pointed out creating the cap in rent savings is like decreasing the number of years, necessitating a need to offset with the population benefit. It is still driving toward ELI, and the way to offset that is to have ELI be \$40,000.

Mr. Sertich said his point was \$30,000 is fairly small compared to rent savings.

Caleb Roope of the Pacific Companies and the working group said as values are discussed on what to assign to ELI and VLI units, the value eliminates the floor the committee wanted to put in place.

\$40,000, as an example, a good chunk of the counties have less than that as rent savings, thereby eliminating the floor. The higher income counties would have higher than \$40,000 but not by much. He reiterated there is not a floor anymore if they give credits for ELI units, making it irrelevant.

Ms. Miller asked at what point do you keep the value of the floor while understanding the desire to drive toward ELI.

Mr. Roope said that was the idea before the 15 year rent decision. Whether it is in rent savings or production, wherever, it still adds to the numerator. He went on to state since there is 15 years of rent savings, additional credit for ELI is not needed. The purpose of that portion of the scoring was to reward projects that serve additional public benefit beyond rent savings such as homeless units, veterans units, etc. The idea of ELI/VLI credit was to deal with a shorter rent horizon timelines. The committee is trying to give ELI rent savings and work on a compromise of the 40% floor. Mr. Roope agreed with Mr. Stivers regarding making sure there isn't an artificial incentive to cater only to homeless veterans. He stated there is no need to double up on this category by providing the additional incentive.

Ms. Miller stated it is not fully accurate to say that a population benefit and rent savings with a cap are the same. They are pushing the benefit still, they are not trying to eliminate the floor, only moderate it.

Mr. Roope insisted the more that is added to the floor, the more it becomes eroded. If the floor is to moderate the amount of rent savings, everything added erodes it.

Mr. Sertich asserted if there is a 40% AMI floor of the rent savings there is a benefit for ELI units and limit the benefit to 50% of the units, it incentivizes the project to do 50% of the units at 30% AMI, 50% at 50% AMI to maximize the rent savings to get the full benefit from the ELI.

Mr. Velasquez reminded the committee there has not yet been conversation about location. He encouraged the committee to not have a location benefit that outweighs the population benefit.

Ms. Miller agreed. Ms. Miller asked Mr. Stivers what \$30,000 does instead of \$40,000 for ELI. Mr. Stivers stated he doesn't have a specific answer to the question but mentioned one way to solve this problem is to have all rental assisted units at 30% AMI in the rent savings since they are serving people making as little as \$0 income and it's not affecting the cash flow of the other properties at FMR, since most units have rental assistance. Instead of having an ELI benefit, treat units with rental assistance a little differently with the rent savings benefit.

Mr. Sertich summarized on the rent savings is based off of restrictive rents as restricted by CTCAC. Right now, there is expected rent and restricted rent, and he wanted to make sure the committee



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was making a decision based on restricted rents. The current CDLAC definition is based on expected rents but wants to hold them to the restricted rents and nothing lower than that. If credit is given at 30% AMI for projects with rental assistance so long as they are restricted to that 30% AMI.

Caleb Roope with Pacific Companies and the working group stated the working group had discussed this previously and was generally supportive of giving additional value to rental assistance units to recognize the public benefit. 30% for those units makes sense based on that. If it is limited to 50% of the total units, it seems to be a moderated approach to balance it out.

The Treasurer called for Public Comment, and there was none. The Treasurer summarized: limit the floor to 40%, all rental assistance units at 30% AMI, cap at 50% of the total units.

Ms. Miller stated there is still a need for the other designations, but the committee needs to decide at what value. There is no longer VLI, need to moderate ELI. Does rent savings get changed for rental assistance and then you can mitigate the impact of the population benefit.

Mr. Roope gave an example of using Alameda County in the Bay Area, a drop to 30-40% AMI, that is about \$52,000 rent savings value. Going to lower cost counties such as the Central Valley, that is only about a \$26,000 change. The more the system becomes stabilized and not have the rent savings balloon, it becomes a better outcome. If there is a way to give ELI units the lower fixed value, that is a better approach. It can also be moderated by being capped at 50% of the total units.

Ms. Miller said they agree on the 50%, and asked Mr. Roope if it would fix the FMR benefit to do the 30% for rent savings and 40% for everything else.

Mr. Roope agreed that would support that but would change dramatically by county if the 30% is left in there. Just counting rental assistance, it would give homeless projects advantages since they typically have rental assistance, as well as Section 8 projects. Reduce the public benefit to the ELI units in that scenario otherwise it goes the other way.

Ms. Miller clarified - 30% for project-based vouchers in the FMR population then reduce the ELI population benefit to \$30,000, keep homeless at \$10,000.

Mr. Sertich asked if they wanted the veteran and special needs units to be the same, reiterating that special needs and homeless tend to incur additional costs, and one of the earlier comments was to do "either/or" for non-homeless, non-special needs veterans. He went on to say special needs and homeless should be incentivized, but not to the same level as ELI and veterans.

Darren Bobrowsky of USA Properties Fund pointed out financial feasibility of the projects is important, and the scoring system impacts people's behavior, saying people will do crazy things to get funded. If project-based vouchers are recognized at the 30% level, there should not be additional benefit since they are already at that level. Mr. Bobrowsky stated he does not believe any benefit should be given to the ELI level because a project without vouchers at that level is not financially feasible because operating expenses are greater than the rents collected. He went on to say he does not think developers should be pushed to the ELI level if there is not some sort of subsidy contract for 15-20 years since there needs to be a rental subsidy to make it feasible.

Ms. Miller reiterated they are trying to change behavior and moderate the system. On one side is the 30% reduction in AMI for the rent savings category, on the other side when lowering the benefit, it is negated unless there is a population benefit of some type.

Mr. Bobrowsky stated operating expenses tends to be about 40% AMI, so if developers are being driven below that level, it wipes out a permanent debt, creating a need for increased public subsidies for the projects, thereby driving down production. He stated operating expenses will be



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reduced as much as possible creating issues later down the road such as projects being undercapitalized and not being able to be maintained.

Mr. Sertich stated the one mitigating factor to that is the ELI value of 50% of the units, there is a place where it is averaged at 40% AMI, which is between 30-50% AMI units.

Mr. Bobrowsky said 40% AMI is feasible only with a very efficient operator.

Ms. Miller agreed there needs to be subsidies and there is a reward for having those in place, and Mr. Bobrowsky stated including the rental subsidies for 15 years of rent savings at the 30% AMI is the right thing to do, but to have 50% AMI without those for the long term is going to be a big challenge.

Ms. Miller agreed that is the challenge and it is up to the developers to figure out how to make it work.

Mr. Bobrowsky stated he believes developers will do what they need to in order to get their projects funded even if it does not serve the population well or maintain quality housing for a long period of time, otherwise the projects will come back in 15 or so years underwater and in disrepair. He went on to say he does not believe ELI should be in the population benefit since it is already recognized in rent savings with project-based vouchers.

The Treasurer asked Mr. Bobrowsky for his opinion on the homeless, veterans, and other. He replied the initial intent is to drive developers to serve those populations, and agrees projects should not be 100% one type, and they will follow whatever the scoring system indicates. Mr. Bobrowsky echoed Mr. Roope, that the ELI and VLI were included in population benefit when the rent savings was at 5 years but is no longer appropriate since they are being recognized in the rent savings and it is down to 30% AMI with project-based vouchers.

Ms. Miller believes there should still be ELI in the population benefit, go to 30% AMI for subsidized units and 40% for regular AMI. The population benefit has the ability to eliminate all that without any benefit at all. This is where the balance comes in so there is a focus on ELI, those who are at risk of homelessness, and is a specific type of production. She suggested going to \$20,000 to acknowledge the need to financial feasibility but anything less than that eliminates the benefit.

Mr. Velasquez pointed out the committee has not yet discussed the numerator benefits, such as location benefits.

Mr. Sertich stated the affordability is already in the rent savings, so there is a big adjustment there, and is a supplement to the rent savings.

Ms. Miller recommended to amend the rent savings category to have 30% floor, and under population benefit to have no less than \$20,000 for ELI, eliminate VLI, then \$10,000 each for the rest.

Caleb Roope with Pacific Companies and the working group wanted to provide some examples of public benefit. He pointed out Alameda County FMR to rent savings at 40% AMI is \$181,000, which is a large number, making the other benefits seem small. A lower cost county such as Sacramento County 40% AMI is worth about \$135,000 of rent savings. This number increases \$40,000-50,000 for rental assisted units at the 30% AMI level. Mr. Roope reiterated his point was to show how large the rent savings are compared the other benefit sections. Homeless, special needs, and veterans will be units deeply targeted already, in order to serve the population properly. Therefore, it wont eliminate rent savings, but will add to it. Going to location, there is a relevant discussion on



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mitigating the rent savings, but it is sufficient to leave these low since they are so high in the rent savings category.

The Treasurer recommended \$0 for ELI and VLI, \$10,000 for homeless, \$10,000 for veterans, and \$10,000 for special needs.

Mr. Sertich stated he believes the \$10,000 benefits are marginal so is okay with them. Looking at the rent savings being over \$100,000 per unit, adding additional items would be marginal, which has rent savings as the main driver.

Ms. Miller said the examples do not seem to be fully accurate, though agrees rent savings is the biggest benefit, and if there is no floor on rent savings, everything can be eliminated. But with a floor, there is a need for population benefit which is where the moderation comes in. She went on to state this is why we must have an ELI category in order to have a floor on rent savings.

Mr. Sertich agreed to having a \$20,000 ELI benefit and \$10,000 each for homeless, veterans, and special needs.

Ms. Miller clarified they would also change the floor to 30% for project-based vouchers, and 40% AMI, with 50% of the units, specifying it could be "or" regarding veterans, homeless, or special needs.

Ms. Robles clarified projects can get the benefit for one of the three categories.

Mike Walsh with Riverside County Housing sees the priority of keeping the population benefit to a higher amount. However, he also appreciates how it reduces the amount of permanent loans but that is where local public subsidies are used to incentivize at a local level. Eliminating or reducing leveraging points is another way to incentivize what is happening at the local level. Regardless of the amount, keeping an ELI benefit is a high priority. In terms of keeping the floor at 30% [AMI] on rent savings makes sense as well as using "or" for the other categories.

(indiscernible) wanted to reiterate the importance of ELI and homeless housing. There is a need for deeper targeting so it should be incentivized, especially if the floor is capped at 40% [AMI], even with project-based vouchers.

The Treasurer summarized this is for restricted rent, \$20,000 for ELI, \$0 for VLI, \$10,000 for homeless, \$10,000 for veterans, and \$10,000 for special needs, and 50% of the units at 40% AMI and 30% AMI for project-based vouchers.

MOTION: Mr. Sertich motioned to allow for a 30% floor on rent savings for projects with project-based rental assistance, population benefits at \$20,000 per unit for extremely low-income units, \$10,000 per unit for homeless units, \$10,000 per unit for units serving veterans, and \$10,000 per unit for special needs units, with the last three (\$10,000) benefits being "or" so only one benefit total is given. The total population benefits will be capped at 50% of the units. Ms. Miller seconded the motion.

Motion passed with a 2/3 majority vote, with the Treasurer voting no.

The Treasurer brought up location benefits and specified it would need to be adjusted since the original calculations were based upon 5 years of rent savings.

Mr. Sertich wanted to evaluate if the resource area benefit in the tiebreaker would go away at the 50% soft cap, and reiterated he believes that should be taken away after the 50% soft cap is met. One suggestion was to remove it from the tiebreaker, however, with the inclusion of a differential



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between high and highest resource, he does not believe it should be taken away, though believes added benefits would not be added after the 50% soft cap is met. He believes it would benefit the high/highest resource areas before meeting the 50% cap so wants to leave it in there.

Ms. Miller stated it makes sense to take it out after the soft cap is met. Both agreed only the values need to be determined leading up to the soft cap.

Mr. Sertich believes the first three are mutually exclusive the way they are written regarding resource areas. Make the community revitalization areas an “or” versus resource areas, since the committee is focusing on where the resource areas would be. Transit would be additive to those location areas.

Mr. Velasquez mentioned the committee had agreed there needs to be more walkability. There were three tiebreakers that the committee believed were transit-based. Then there was another aligning with CTCAC amenity points, which mostly regarded walkability. He urged the committee to consider combining the ½ mile walkability score to every-15-minute transit, or ¼ mile to every 30 minute transit, or AHSC TOD emphasis, and have this as a TOD category with a certain value. Then the CTCAC transit score, which is 2,000, for a maximum of 14,000.

Mr. Sertich pointed out the original draft was for 10,000, which would be a maximum of 70,000, which he believes is too high. Mr. Sertich believes high-quality would be a bump up, which Mr. Velasquez does not recommend since it would only be 10,000, and it was 30,000 before.

Ms. Miller believes all of the recommended numbers need to be reduced.

Mark Stivers with the California Housing Partnership wanted to simplify the primary transit benefits based upon the CDLAC transit points and the walkable items. He said it was about giving some credit for each site amenity award up to a maximum of 10. The point could be awarded for being close to transit, a grocery store, to a school, park, etc. The way to simplify it is to have x-dollars per CDLAC site amenity points up to a cap of 10, so if it was \$2,000 it would be a cap of \$20,000. If they wanted the high-quality transit, that would be separate. The easiest way is to give site amenity points. Mr. Stivers believes high quality transit is separate, and combine the walkability with the site amenity points, but have high-quality be above and beyond that. Mr. Sertich believes the idea is to be a little more nuanced than that in the sense of only giving credit for the most walkable amenities CTCAC amenities to tie it to transit.

Caleb Roope of the Pacific Companies and the working group offered a couple ideas. It is hard on staff when the system is more complex. As far as turning off public benefit, it is one more thing to track, in addition to the soft cap, and now asking them to track turning off public benefit in high resource areas. He recommends there not turn off the public benefits. Giving homeless credit and high resource credit is to recognize something of value is being produced and the cost to produce it. For the sake of keeping it simple and valuing the cost associated with that, he recommends not turning it off after the 50% soft cap. Circling back to rent savings category as a whole, it is a large number. Whittling away at the smaller numbers makes the rent savings much larger in comparison. The committee needs to reward other policy goals, such as walkability, which are climate-based changes. The working group supported giving value to high quality transit, for example, and the administration talking about awarding the TOD program. Mr. Roope urged the committee to not diminish the values any further, and possibly increase them, and continue to reward what makes residents lives better. He highlighted being within short walking distance to a grocery and schools. He urged the committee to reward other benefits to add value to the lives of the people who will



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live there and keep it easier for staff. Mr. Sertich agreed with most of what Mr. Roope said and wants to make sure that as public funds are awarded, the public benefit efficiency matrix they come up with needs to be greater than 0. As the numbers are narrowed down, the committee needs to avoid putting out, for example, \$10 million for \$7 million in public benefit, while not inflating the numbers to give the most benefit possible.

Mr. Sertich stated if they are trying to incentivize the high and highest resource areas, the numbers are too low, and don't represent the costs of building in those areas so won't get the desired outcome. The revitalization points should be equivalent to the high resource area and need to be defined properly. One definition offered was a redevelopment of a public housing project, then designate certain areas for it. The TOD emphasis should be around \$5,000 x 7 and high-quality transit also around \$5,000 with the multiplier on top of that, which would give up to \$65,000 for transit.

Mr. Roope stated the list of walkable amenities includes schools, parks, grocery, library, pharmacy, senior center, giving about 6 categories. To keep it easy on staff, keep the definitions the same across CTCAC and CDLAC. It's the closest of the 6 categories. To add that in would be about \$60,000. Many projects that get rent savings would get points for their areas since they will be close to amenities. For example, a homeless project builds near transit, so it also gets transit points. It does not erode the rent savings by adding these things.

Mr. Sertich agreed he likes the walkability, since those tend to be the places people want to live and having these at \$5,000-10,000 would encourage walkable destinations and transit.

Ms. Miller agreed and expressed why these benefits would still be considered rather than being turned off after the 50% soft cap is met.

Mr. Roope said these numbers are not significant when discussing rent savings and does regard the areas being higher cost. He stated the committee may agree they want homeless projects in great locations and large family projects in highest resource areas. Those high resource projects likely won't be able to deep target like the homeless projects can, so will be behind on the rent savings. Many high resource areas don't have the soft money to contribute to drive rents down. Since high resource projects are less likely to deep target, giving them additional public benefit without it turning off would give it more opportunity to win. He believes the policy is balanced with this in place without turning it off.

William Leach with Kingdom Development supports not having the benefit turn off after the 50% soft cap. There's a benefit in differentiating between high/highest and moderate resource areas, turning off that benefit stops the differentiation.

Darren Bobrowsky of USA Properties Fund suggested high quality schools. He stated part of ending the cycle of poverty is education. Maybe adding a point for a school with a higher rating near a large family project should be incentivized since it will provide future benefit. Mr. Sertich pointed out that is part of being in a high/highest resource area. Mr. Bobrowsky stated not all high/highest opportunity areas have schools with 9-10 ratings.

Mike Walsh with Riverside County Housing Authority is okay with keeping it in the score with location benefit for \$30,000. They encourage doubling the benefit for TOD, high quality transit, and walkability. During COVID, many transit agencies scaled back services, and that is just now starting to ramp up again. They see a benefit in being close to transit, but that means different things. Being near the Metro Link in Riverside, that is not deemed high quality transit because it



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does not meet the defined headways. They would like to see transit minimized or equal as those in proximity to a grocery or school, high quality schools, parks, etc. They recommended keeping a cap on walkable amenities.

Rick Wallace in the North Bay, in regard to high quality transit, they have been looking for definitions of what that means. They have found many communities are an hour from downtown, and they have high quality transit but in a larger window, from 6-9a until 4-7p, and suggest there be an opportunity to quality by looking within those hours. That would take care of early departures and arriving well before or leaving after the main rush.

Alice Talcott with Midpen Housing, in regard to tiebreaker benefits for high/highest resource areas, take into account giving an extra point and setting the cap at 50% of half the total bonds. Projects in other resource areas need to have a path forward, so argues tiebreaker benefits should be cut off after the 50% soft cap is met. There are projects in other areas with high costs with infrastructure costs, with land that has been contaminated which incurs additional costs.

(indiscernible) wanted to add about removing the tiebreaker benefits after the 50% soft cap for high/highest resource areas, for the same reasons the previous speaker said. It is an opportunity to prioritize climate goals and emphasis high quality transit and walkability.

Mr. Sertich believes this is a large piece that drives where the committee wants to go and they need to define where that is, such as deeper targeted housing. The relative values matter a lot.

Ms. Miller pointed out there needs to be a discussion about when or if the points in the numerator turn off only after the soft cap is met, and how to heavily prioritize (indiscernible).

Mr. Velasquez specified there is a need for balance as well.

Mr. Sertich believes there is a middle ground. Highest, high, and moderate resource areas are starting from a 30,000, 20,000, 10,000. If there was the extra point for the highest and high resource projects, there is the benefit there, but are less likely to win in a tiebreaker scenario, so need to incentivize in those areas since it does cost more to build there. There could be other factors. He proposed an increase in those to 40,000, 20,000, 10,000, respectively, and leaving it on after the point, and leaving it on for the whole calculation. The highest scoring projects that don't get the extra point won't be able to compete against any projects left over since those would be the lowest and not be at the 50% point.

Mr. Velasquez asked why not turn it on after the 50%, and Mr. Sertich clarified to not turn it off at all.

Ms. Miller stated she would not want to increase those values if it is left on the whole time. Mr. Sertich said if it is on during the first 50%, the extra point still being applicable, they are benefiting the highest resource over the high resource a little. If it is left out then put back in later, then it is saying the high and highest are equal.

Ms. Miller asked to leave the values as they were.

Mr. Sertich said that is possible and balances out favoring highest opportunity areas in the end, and affordability is having a large impact on the scores.

Caleb Roope of Pacific Companies and the working group stated as it stands right now, high resource projects are losing. Because there are so many projects coming in, being able to distinguish between high and highest resource areas will be of value, in order to identify the very best high resource projects moving through the system. Developers have adjusted their approach to finding properties and land, so more of those high resource projects are upcoming. Mr. Roope said at that point, he



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believes developers will start competing on rent savings, even in high resource areas as a result of deeper targeting.

Mr. Sertich verified if the committee is in agreement to keep the values as they are.

Mr. Sertich motioned to keep the highest resource gets \$30,000 credit times adjusted units or high resource area or community revitalization areas gets \$20,000 credit times adjusted units, or moderate resource areas \$10,000 credit times adjusted units.

Regarding TOD, Mr. Velasquez specified the benefit of walkability was important, so placed a \$2,000 value on each.

Mr. Sertich added these are based on an amenity type situation, to include amenities not related to walkability for a maximum of 10 points. The idea is to get the maximum of points allowed from a plethora of options since there are more than 10 types, 6 or 7 of them based on transportation and walkability.

Mr. Velasquez recommended \$10,000 for TOD, and Mr. Sertich stated he believes it should go higher, since rent savings would be between \$100,000-200,000 per unit according to county. If they want to make transit and walkability be able to get up to \$50,000 in total, with each being at \$5,000, then have high quality transit at \$20,000-30,000.

Ms. Miller clarified TOD would be \$5,000 times the number of amenities, up to \$35,000, and \$4,000 for walkable amenities (park, library, grocery, school or senior center, pharmacy, and medical clinic) for a total of \$24,000, if all of these were within walking distance, total of \$25,000.

Mr. Roope specified the site amenities distinguish between rural and urban communities and give more latitude in the distance. He clarified urban areas compete with themselves and rural areas compete with themselves. Mr. Roope reiterated the importance of not devaluing the location factor since it is so valuable to residents. The category won't overwhelm the rent savings, based upon the math, so encouraged the committee to not under value them, and projects that benefit from high rent savings would also touch on these amenities.

Ms. Miller stated the total location benefit would be \$30,000 for the first four, plus \$25,000 for amenities.

William Leach of Kingdom Development highlighted most locations in a city will score 7-12 site amenity points regardless. In the urban core, they would score 15-20 points. There's a big differential in what is scored. He agreed with Mr. Roope that those who do well on rent savings naturally get some of the transit points. It is the differential they should worry about outweighing the rent savings. The differential between a well-located project and a poorly located site may be perhaps 2 walkability points, slightly better headways on transit, and perhaps not high-quality transit. Therefore, the proposed \$4,000 each or \$25,000 for all of them, the differential between these projects would be about \$45,000. He stated he teaches his new staff to review the differentials, instead of the total points. Those points would not outweigh the rent savings at all. Doug Shoemaker with Mercy Housing and the working group agreed with Mr. Leach. He stated the relative balance of amenities against the rent savings won't overwhelm the category. He appreciated they were not perfectly equal but appreciated the committee valuing what would benefit the residents. Mr. Shoemaker pointed out not having a car saves a household up to \$13,000



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a year for each car they do not own. The more high-quality transit and walkability is pushed, the more likely people are to not need a car. He stated this could also be seen as a sort of rent savings. Ms. Miller asked if the location benefit is for all units, but rent savings is for only some of the units, how do the benefits accrue?

Mr. Shoemaker stated he thinks rent savings is only accruing on the average for the entire projects. He believes both should accrue to all units. Mr. Sertich pointed out in most parts of the state, an 80% AMI unit would give \$700 rent savings, with some being more or less significant. But at 40% AMI, this would apply to the entire state regardless of location. Therefore, the rent savings, while it is large, every project is getting it, so there is a need to look at the differential and would not outweigh the benefit of deeper targeting. Mr. Shoemaker stated the State Controller's Office originally pointed out was if there is a TOD project, in almost every case, there are some additional costs to being in the dense urban environment such as parking, having open space on the roof, or other building costs associated with a very dense site. Encouraging people to build in those areas would require the right message in the tiebreaker.

Ms. Miller asked for additional information regarding adjusted units, and Mr. Sertich clarified the benefit is based upon adjusted units and population benefit, incentivizing larger units.

Mark Stivers with the California Housing Partnership stated it seems the committee is discussing tax credit units to the extent they are talking about market rate units or above 80%, who may not be able to apply to any of the benefits. Then he asked if it is regarding regular units or adjusted units. The idea of accounting for adjusted units costs more, but if it is in the production benefit and all the benefits, it tends to multiple the cost adjustment.

Mr. Sertich indicated the average unit is 1-2 bedrooms.

Ms. Miller clarified the TOD emphasis would be \$4,000 each, it would be a total of \$28,000, since there are 7 points.

Mr. Sertich added high quality transit is either yes or no, at \$25,000. For CTCAC amenities, there are 6 at \$4,000 each for a maximum of \$24,000.

Mr. Velasquez specified it is proximity to transit *or* an AHSC, and Mr. Sertich reiterated yes, it is the definition of high-quality transit.

Mr. Velasquez stated they are redefining what high quality transit means at HCD outside of AHSC.

Mr. Sertich stated revitalization and high-quality transit have not clearly been defined to staff and will need to be done in the near future.

Ms. Miller summarized the total location benefits at \$30,000 for (indiscernible) or community revitalization, \$28,000 for TOD, and \$25,000 for proximity to high quality transit, and \$24,000 for walkability benefits, for a total of \$107,000 location benefits. Mr. Sertich agreed and reiterated many have stated many highest resource locations have opportunities near for high quality transit, but a project getting all of those is a very low possibility.

Mr. Leach stated the barrier to getting a perfect score is often finding land in those areas.

Ms. Miller appreciated the fact that it is difficult to find land to fit those criteria.

Mr. Velasquez brought up that they are going through a comprehensive review of definitions and asked to work with the staff to get the definition correct. Mr. Sertich agreed it would be beneficial in order to maintain consistency and to target the intended beneficiaries.

Public Comment:



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There was no public comment.

MOTION: Mr. Sertich motioned for location benefits to be highest resource areas will get \$30,000 times adjusted unit, high resource areas will get \$20,000 times adjusted unit, moderate resource areas will get \$10,000 times adjusted unit, for large family and permanent supportive housing projects, community revitalization projects that are not in those areas would get \$20,000 times adjusted unit; TOD emphasis for CTCAC transit score would be \$4,000 each times adjusted unit, high quality transit or AHSC would be \$25,000 times adjusted unit, and walkable maximized CTCAC amenities would get \$4,000 each times adjusted unit. Ms. Miller seconded the motion. Motion passed unanimously via roll call vote.

The Treasurer stated the denominator needs to be addressed.

Mr. Sertich specified his concerns are about the adjustments, and possibly double counting several items. One is the basis limit delta percentage, geographic costs, and rent savings to some extent. The adjustments for prevailing wage and density adjustments are being double counted for the high-cost areas because those extra costs are already in the threshold basis limits. There needs to be some adjustments to make it geographically balanced, and Mr. Sertich recommended limiting these to 25% of the threshold basis limit delta to make it geographically equitable as opposed to the 100% it is now.

Ms. Miller clarified if he would keep the prevailing wages, and he stated to reduce them by a similar measure. He said reducing it by the 25% gets it to the measure of where neither high nor low-cost areas are benefiting in the tiebreaker score, creating a balance.

The Treasurer called for public comment.

Mark Stivers of the California Housing Partnership wanted to comment on prevailing wages and construction type. He stated the way threshold basis limits are calculated, all projects in a region from the last 5 years are evaluated, and with the exception of San Francisco, there are no counties where the prevailing wage jobs are all the jobs or necessarily more than half of them. With type 1 and type 3 construction, it's likely very few counties with those types are the majority of projects. He does not believe the basis limits account for prevailing wage or type 1 and 3 construction. CTCAC has long established percentages of how to adjust the threshold limit to account for prevailing wage for types 1 and 3 construction. He stated he was not sure how to change that to fit with CDLAC, so recommends using the CTCAC numbers for prevailing wage and types 1 and 3 construction adjustments. For prevailing wage, it's 20%, for type 1 it is 15%, and for type 3 it is 10%.

Caleb Roope with Pacific Companies and the working group said they have 18 projects in the Bay Area between entitlements and constructions. All are type 3 construction. He stated in their experience, the vast majority of projects in those areas are at a higher cost and not all prevailing wage, which is funding dependent. They are getting the boost already. Based on the basis limit, they do a good job representing the density issue, so does not feel there is an additional boost needed for the higher cost. The boosts were all moderated with 10% prevailing wage and 10% for density, the reason being that CTCAC does include many projects of this type across the state. Thinking of the HCD projects and how many go through the 9% and 4% side with CTCAC. The basis limits include all the projects, in both areas. The 9% tend to have more, with the prevailing wage as an example. In



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terms of what is needed to have projects work, the data set is good, so there is no additional boost needed.

Ms. Miller asked for more information regarding the basis delta.

Mr. Roope stated previously decisions were made based on the public benefit section. Given that, looking at what the Controller's Office proposed, he believes 25% is the maximum of the adjustment and may need to be zero, given the cost of projects in the high rent areas tend to be where the rent savings are meaningful. The exceptions being places such as Riverside and San Bernardino Counties, where what has already been decided, rent savings favors their markets because it's not only, that, it's a relatively low-cost place to build if not paying prevailing wages. If they are paying prevailing wages, it changes the equation. There are baked in decisions to incentivize these places and that will happen. Therefore, those areas will benefit. Since the committee has decided on a large rent savings number, some of the boosts will need to be reduced on the cost side in order to moderate it.

Ms. Miller restated that Mr. Roope suggested reducing the basis delta to 25%.

Mr. Roope said it is a matter of the value of cost in production against public benefit and deeper targeting. He said the committee has basically decided to favor and incentivize public benefit and deeper targeting with the previous vote, so the question is if there will be a maintaining of balance. How they can do that is to give value to projects requesting lower amounts of resources. By not factoring the discount in the statewide basis delta discount, it goes the other direction, by giving to those who produce at lower costs, or deeper target with lower costs. Mr. Roope advocates for balance and believes if the system is balanced now there is a need to take away from some of the deductions happening below. Prevailing wages add costs, which can be a lot depending on the area. The committee probably does not want to eliminate prevailing wage by making projects uncompetitive. It should not go the other way, either. The committee has already incentivized using other public funds, with the goal of deep targeting. This general means prevailing wages will show up more frequently as developers deep target. Additionally, with the decision to deep target, the meaning becomes, if bonds and tax credits are being sought, there will be a gap if they deep target. If there is no public funds and the project applies for bonds and tax credits, the applicants will value deeper targeting because of the heavy incentive. All the tax credits going to larger, more efficient units, will all be competing for projects grabbing state credits and dropping rents. Looking at the equation of dropping rents from 50 or 60% AMI to 40% AMI then look for bonds to fill the gap, it scores better. There should be some incentive to limit the amount of state credits a project can get. Specific, the basis delta could be removed entirely, or reduced to 25%, to balance it out. We have not run the numbers on that as of yet.

William Leach of Kingdom Development agreed with Mr. Roope. He wanted to highlight much of is the information found in the basis delta is also found in the FMR. The benefit and decision to use 15 years of rent benefit makes the use of the statewide basis delta less important, so advocated for removing it. He supported the boost being 10% for prevailing wage and lessened, because the resources should be an impactful part of the calculation. The more deductions removed, the more discounts, the less impactful asking for state credits will be. He expressed he appreciates when developers choose to ask for less state credits. The more weight it is given, the more precious it becomes.

Ms. Miller asked if Mr. Leach recommends the 10, 10, and 5, and he agreed, further stating he would remove the basis limit delta or cut it in half.



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Ann Silverberg wanted to provide a counter point. Regarding the basis adjustment - the working group looked at previous results and costs made a difference in where the costs go. Certain counties, even with the basis adjustment, still are over the 30% cap. This would still be true. The rent differential will steer more so the denominator needs to be adjusted. There are still projects that are worthy, or locations worthy of more expensive projects. There will be more of that seen since more type 1 and type 3, more wage requirements as lower rents are pursued whether that is due to Section 8, HCD financing, and SB35, there are a number of cost drivers that are lining up with the other priorities. Ms. Silverberg cautioned in taking too much of a step to reduce the modifications in the basis as part of the denominator fix to compensate for fixing the numerator. There are some projects in locations in big cities, such as San Francisco, Oakland, San Jose, etc, that have had a hard time competing, which will still be the case if they wipe out the modification in the basis, whether it the basis limit or the wage or construction type. She believes they are all needed, saying the need to raise the 30%, she agreed with Mr. Stivers there could be slightly larger adjustments to wages and construction types to be consistent with CTCAC. Mr. Sertich stated he agrees with removing the 30% cap if we can get the multiplier down. For example, right now San Francisco has a 90% adjustment, if the cap was removed, there would be no cost for San Francisco projects. He believes the cap can be removed if the multiplier goes down to 25%. If they get rid of the county threshold basis limit delta, he would be more okay copying the CTCAC prevailing wage or density.

Ms. Miller clarified that Mr. Sertich would keep it at 25% and remove the cap. Ms. Miller stated the idea is to reduce the benefit to balance the numerator. She mentioned they could reduce the adjustment, so the basis delta is 25% and remove the cap.

The Treasurer asked for additional public comment on that topic.

Mike Walsh of Riverside County Housing Authority wanted to emphasis to not give Riverside County a 13% deduction. If they're going to be doing prevailing wage projects, the wage rates are not consistent with LA County. Many of the projects the Housing Authority is providing property vouchers on. If the CTCAC basis delta goes away altogether, they are supportive of that. If it remains in some form, it should not be a negative to counties, but should give an additive to higher cost cities.

Alice Talcott of Midpen stated the basis delta is to adjust for regional cost differences. Prevailing wage and building types are to adjust for specific building characteristics. They are not double counting the same thing because the basis limit delta is capped so there are a number of high-cost counties that their true costs are not getting taken into account. The right weighting of both is tricky, but the basis limit delta cannot go away since it is what adjusts for regional costs. Ms. Talcott stated she is in favor of adjusting the cap to better measure, especially if the weights are going to change.

William Leach of Kingdom Development wanted to add clarification to Mr. Walsh's comment about the Inland Empire having a negative 13% penalty and wanted to remind the committee of how the statewide basis delta works. Counties are measured against the median county, so some are less expensive than the median. Currently, there will be some 20 counties below the average so get assessed a negative. In the math equation, it is like saying they are asking for more of the resources instead of less. Mr. Leach stated he believes the statewide basis delta should be removed.

Ms. Miller asked for clarification on removing the cap.



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Mr. Sertich made a motion (see below) and the Ms. Miller requested additional public comment.

Mr. Leach of Kingdom Development stated the statewide basis delta is potentially a discount in the denominator. He asked if the idea is to give it a maximum value, and if some counties would receive a zero to that maximum value, or if they would get negatives and positives.

Mr. Sertich specified right now there are negatives and positives. When calculating the threshold basis delta, multiply it by 25.

Mr. Leach stated hypothetically if a county is 10% more than the median, what would they get?

Mr. Sertich said they would get a 2.5% reduction.

Mr. Leach asked if they were 10% under the median, they would get a 2.5% increase. He gave the example of San Francisco County which is 95% cost higher than the median. The means they would need more resources. In this system, they would get a 23-24% advantage. If there was a county right at the median, requiring about \$380,000 per unit to build. They would get a 0% differential. The most costly counties, as proposed, would have a 25% advantage, which could be \$5-8 million in resources not counted against them in the denominator. Since even the lowest counties are at 13% below the median, there would only be negatives in small amounts. It essentially takes the current system and makes them smaller but not making the higher counties with high costs not get a differential. The Treasurer stated with the rent savings and other motions that have passed thus far, she asked if higher cost projects would lose. Mr. Sertich stated there are two pieces in the calculation. One is the FMR with rent savings. Higher cost counties have higher rent savings. The second is the threshold basis limit. He tried to determine how counties could compete on a level playing field, in terms of cost, and the best number his team could determine was 25%. Every county is not adjusted equally, since some have higher FMR than the median such as the Inland Empire and have lower cost differentials. The counties that will benefit the most are the ones with a higher need. There has been a lack of supply in building in the last few years, such as Santa Barbara, Santa Cruz, Monterey, which are smaller counties. The bigger counties have mostly evened out. The Treasurer pointed out the smaller counties don't have the amenities like the larger counties so won't get those points, so asked how they will win. Mr. Sertich stated they would be able to compete based upon rent savings and project type.

Caleb Roope with Pacific Companies and the working group stated he was experimenting with a spreadsheet with the newest calculations proposed, and added 15% for prevailing wages, counting 25% of the basis delta and no cap. He stated the cap in general is an artificial suppression of true cost differences, so removing the cap is good policy when measuring. Parity is roughly produced at the 25% counting of the delta. The quick math agreed with the Controller's Office. An example is Riverside County, which has a unique environment where costs tend to be much lower, yet FMR are higher. So Riverside and San Bernardino County wins every time. Generally, across the state it creates more parity but there are pockets of exceptions. Another example is Santa Cruz County, which will win over any Bay Area or Coastal project, depending on where the county ends out in the regions. As far as he could tell, he does not believe it is more than 25% to create [equality]. He went on to state he did not run the numbers with real projects, only sample projects by using basis limits or taking land cost into consideration. As a Bay Area developer, he supports it.

Ms. Miller asked about 10% versus 15% prevailing wage.

Mr. Roope stated when adding the cost of prevailing wages varies greatly. But when in areas not paying prevailing wages such as San Francisco, adding in the 15% versus actual prevailing wage



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costs, it tends to true up, so it is a reasonable adjustment. Policy wise, more prevailing wage projects means less production, higher costs, fewer bonds going out doing things. Absent federal changes, the outcomes of this meeting would reduce production in exchange for deeper targeted units due to higher costs. In conclusion, the 25% adjustment and 15, 10, and 5% on density, type 1 and 3, respectively, works with some exceptions.

Ann Silverberg of the working group clarified, what seems to make sense when put in practice. She stated 25% seems to be a modest adjustment versus 50%, but it is a greater adjustment by adjusting the denominator more by blunting the affect of the adjustor. It is currently at 100%, with some limitations of the 30% basis. This is saying they are going to adjust the denominator by a smaller amount of 25%. Some believe it is too much and may want to go back to 50%, as a more moderate position until the full affects are known.

Doug Shoemaker from Mercy Housing and the working group agreed with Ms. Silverberg.

MOTION Mr. Sertich motioned to reduce the threshold basis limit delta is multiplied by 25% and remove the cap. Prevailing wages adjusted to 15%, density to 10%, type 1 density at 10%, and type 3 density at 5%. Ms. Miller seconded the motion.

Motion passed by 2/3 vote with Treasurer Ma voting no.

4. Agenda Item: *Committee Discussion and Recommendations to Staff Regarding 2022 Regulations – Presented by Nancee Robles*

This agenda item was carried forward to a future meeting.

5. Agenda Item: *Recommendation for 2022 CDLAC Calendar of Meetings and Acceptance of Application - Presented by Nancee Robles*

This agenda item was carried forward to a future meeting.

6. Agenda Item: *Public Comment*

A discussion ensued to re-address adding HCD and CalHFA cost of projects to the denominator and ended with the conclusion that the decisions made so far, and voted on, have been thoroughly vetted by the committee already. Over the last three years the Committee focused on lowering costs and producing more units which disadvantaged certain parts of the state. Now the Committee is trying to correct those disadvantages which may create new issues of disadvantage in other areas of the state. The new focus is on ELI, homelessness and near homelessness. Ms. Miller stated it could be something we discuss again next year.

7. Agenda Item: *Adjournment approx. 1:45 pm*



California Debt Limit Allocation Committee

915 Capitol Mall, Conf Rm 587
Sacramento, CA 95814

December 8, 2021

Committee Meeting Minutes

1. *Agenda Item: **Call to Order and Roll Call***

The committee meeting was called to order at 11:02am.

Voting Members: Fiona Ma, CPA, State Treasurer
 Tony Sertich for Betty T. Yee, California State Controller
 Gayle Miller for Governor Gavin Newsom

Advisory Gustavo Velasquez for the Department of Housing and Community
Members: Development
 Tiena Johnson Hall for the California Housing Finance Agency

2. *Agenda Item: **Approval of the Minutes of the November 10, 2021, and November 17, 2021, Meetings***

Committee Comments:

There were no committee comments.

Public Comments:

There were no public comments.

MOTION: Mr. Sertich motioned to approve the November 10, 2021, and November 17, 2021, meeting minutes. Ms. Miller seconded the motion.

Motion passed unanimously by roll call vote.

3. *Agenda Item: **Executive Director's Report** – Presented by Nancee Robles*

Ms. Robles reported she has been asked to participate as a new councilmember of the California Interagency Council on Homelessness led by the Homeless Coordinating and Financing Council; a division of the Business, Consumer Services and Housing Agency. She stated this will allow her to collaborate with state leaders to further impact the prevention and end of homelessness in California.

Ms. Robles reported last Friday she attended a Groundbreaking Ceremony for Sugar Pine Village in Madera and presented a certificate on the Treasurer's behalf. Sugar Pine Village has 52 units of affordable housing, 20% of which is for homeless housing. The land was donated by Darrel Ridenour, the owner of Darrel's Mini Storage. Along with Bond Allocation and Tax Credits, this project received No Place Like Home funds and was strongly supported by United Health Group and the Madera County Behavioral Health Department. One of the speakers was a future tenant who is a single mother who expects to move in in two weeks; grateful that her two young daughters would be able to stretch their legs out on a real bed instead of curled up in the back seat of the car. It was a great reminder of the Committee's mission.



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Ms. Robles stated at the November 29th meeting, the committee concluded they could not establish the annual meeting schedule until direction was given regarding regulations, allocation of the pools, and determination of the number and frequency of rounds. She requested a Committee Meeting be held on January 19, 2022, at 11:00 am to conclude the business matters of (but not limited to):

1. the calendar schedule for 2022
2. the Determination and Adoption of the 2022 State Ceiling
3. and the Consideration and Adoption of the Apportionment of the Pools

Committee Comments:

Ms. Miller asked about the timing as there are some outstanding issues on the regulations, asking if this would wait until the January 19, 2022, meeting since there are 3 large outstanding issues to address. Regarding the pools and the timing, she asked if there could be an additional meeting before the end of the year.

Ms. Robles clarified those agenda items would be regarding the calendar, the apportionment to the pools, and adoption of the State Ceiling since those were typically approved in January meetings.

Ms. Miller agreed, there could be another meeting to finalize the decision points on the regulations, then a later meeting to discuss the regulations.

The Treasurer called for comments from the public.

Public Comments:

There were no public comments.

4. Agenda Item: *Consideration of Extension Requests for Qualified Residential Rental Projects Allocated in 2021* – Presented by Nancee Robles

There were no extension requests to consider.

Agenda item 7 was taken out of order.

7. Agenda Item: *Recommendation for Allocation to Qualified Private Activity Bonds for Exempt Facility (EXF) Projects* – Presented by Nancee Robles

This item was taken out of order since it is not related to affordable housing.

Sugar Valley Fuels is requesting \$400 million in exempt facility allocation. There is \$85,600 in the exempt facility pool. Sugar Valley indicated they would accept that amount if offered. The project qualifies for staff to recommend it for approval for \$400 million or less if there is not enough remaining in the pool.

Committee Comments:

The Treasurer stated there was an issue with Sugar Valley at the CAEATFA meeting.

Ms. Robles stated, at the California Alternative Energy and Advanced Transportation Financing Authority meeting Sugar Valley Fuels' request for an extension of its used sales tax exemption was denied.

Mr. Sertich stated at the last meeting they asked to come back to discuss their progress. He expressed concern they would give an award and the award would not go anywhere.



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Ian Parker with Sugar Valley Fuels stated they were granted \$37 million in sales tax waiver by CAEATFA to California Ethanol and Power 8 years ago and has since been rebranded as Sugar Valley Fuels. State resources should not be out there for 8 years. The roles have changed, so the board recommended they reapply, under different parameters as policy has since changed. The company is in the application process for the sales tax exemption. He acknowledged it is important to be prepared when coming to the state for resources. The application will be reviewed by CAEATFA next month. Mr. Parker stated he has email confirmation from a Spanish equity firm who is working on a term sheet to invest \$125 million into Sugar Valley Fuels, and have been diligent for the last two months. This deal was starting to be marketed in October. Everyone is talking about inflation, and their numbers have been readjusted to reflect the reality of their situation to show performance has improved. There is a fixed price contract for EPC and there are investors who are in contract and waiting for the end of January. They are marketing through Baker Tilly, and have information out to 26 investors. Mr. Parker emphasized the company is ready to move forward and have learned to only come to the state when they are ready to move forward. They have been working with another company on private placement debt, and the rest will be through CPCFA, and hopefully with the tax-exempt bonds for \$85 million.

Mr. Sertich restated Sugar Valley is working with the private equity, which would be at the end of January, so asked if the bond would issue after January. Mr. Parker said it would, and will be moving forward in January with marketing and other investors, and would be in a disclosure document. It would be one of the first advanced biofuel CBI green bonds certified, going on to say Europe seems to be more interested in it thus far than America has been. He stated the hard part is getting the equity. Mr. Sertich said his concern is there are still some hurdles to get by, but if the \$85 million is tied up and they don't move forward, the money is tied up. He further stated he would feel more comfortable if they came back in 2022 with the request.

Ms. Miller appreciated Mr. Parker's willingness to recognize the benefit of the state programs and work with the state. She expressed all the projects need to be shovel ready before coming for resources since they are so scarce. She appreciated what they are doing and values the project but is not at a point where she is ready to move forward.

Mr. Parker said they will be done by April and have equity now and are ready to go.

Mr. Sertich reiterate there is typically 180 days for projects to issue their bonds, and with the end of 2021 approaching, there is the possibility of losing the \$85 million, but is more comfortable considering the project for 2022 bonds.

Mr. Parker stated they will resubmit the application.

Dave Rubenstein with Sugar Valley Fuels reiterated they are excited for the project, and to help the farmers get fuel within the state. The sales tax issue was a bit of blow but they will apply again, and try again to get some of the volume cap. That would help fill some of the holes and also sends a message to potential investors and the county that the state is in favor of this kind of project. He agreed they applied for the sales tax exemption too early. Having the Spanish firm and a potential Asian firm [investors] reiterates the importance of what they are doing.

The Treasurer echoed Ms. Miller. She stated many of the biofuel companies have the same timeline issues and are asking for extensions. She agreed there is a great need for volume cap and encouraged them to come back to apply next year for the sales tax exemption and bonds with the



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full project. She recommends returning the funds back to the pool and discuss with the committee how to use the bonds.

Mr. Sertich stated it is not so much about taking a step to show investors the state is behind it, but to have it the other way around.

The Treasurer acknowledged Mr. Rubenstein working with the state for the last 14 years on this project and looks forward to continuing to work with him.

The Treasurer recommended to put the volume cap toward ELI/VLI projects.

Ms. Robles reiterated there are no additional exempt facility projects for 2021, so urged the committee to act consistently and allocate those funds to ELI/VLI new construction.

The Treasurer called for comments from the public.

Public Comment:

There were no public comments.

MOTION: The Treasurer motioned to move the \$85 million exempt facilities remaining set aside of volume cap to ELI/VLI new construction projects.

Mr. Sertich seconded the motion.

Motion passed unanimously via roll call vote.

5. Agenda Item: *Consideration of Appeals for Award of Allocation to Qualified Private Activity Bonds for Qualified Residential Rental Projects - Presented by Nancee Robles*

There is one appeal from Mercy Housing for Stockton Boulevard project in Sacramento. The first appeal was submitted to the executive director who denied it. Mercy Housing is appealing to the committee. The application was submitted in the ELI/VLI pool incorrectly. They are not asking for an exception, only an opportunity to confirm that had they been afforded the opportunity during the deficiency process, the conversation would have come sooner. In light of the reallocation [of the exempt facility pool to ELI/VLI new construction pool], the appeal would not affect any of the other items on the list.

Doug Shoemaker of Mercy Housing stated there was an inconsistency in what the posted regulations were and what his staff saw. They relied on what they understood the regulations were. As soon as they saw the discrepancy, they reached out to express they were happy to conform to the rules of the ELI/VLI pool, but needs a little time to do it, though are committed to do it and conform to the 50% requirement. He expressed the desire to be allowed back into the ELI/VLI pool and appreciated Staff's willingness to work with them to address this.

Mr. Sertich appreciated Ms. Robles and Ms. Burgos working to keep the website updated, correct, and consistent so this issue is not recurring. He stated there are no losers here since there are the state tax credit constraints as well. He believes, based upon the information, he supports the appeal.

Ms. Miller agreed, and appreciates Mr. Shoemaker's remorse over it, she expressed the importance of having worked with him, and want to continue to work with the team at CDLAC to make sure they're all complying.



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The Treasurer reiterated when the government is wrong, they should err on the side of the taxpayers, and acknowledged the challenges faced at CDLAC, with the goal of getting as much housing out as possible. She further touched on the amount of confusions surrounding the emergency regulations. She thanked Ms. Robles for her leadership at CDLAC, putting the pieces together, and trying to right the ship.

Mr. Shoemaker thanked Ms. Robles, Ms. Burgos, and Mr. Walker for addressing the difficult situation, saying he is sure his staff never tried to evade the regulations.

The Treasurer called for comments from the public.

Public Comments:

There are no public comments.

MOTION: Mr. Sertich motioned to approve the appeal for Stockton Boulevard in Sacramento.

Ms. Miller seconded the motion.

Motion passed unanimously by roll call vote.

6. Agenda Item: Recommendation for Award of Allocation to Qualified Private Activity Bonds for Qualified Residential Rental Projects - Presented by Emily Burgos

Ms. Burgos stated she planned several scenarios but did not a plan for what was just voted on. Since the committee voted to allocate the \$85.6 million to the ELI/VLI pool, it is likely they will be voting on projects that have not yet been reviewed and have not yet been informed.

Adding the \$85,600 to the ELI/VLI pool, there were some changes to the list. It adds two projects, CA-21-767 and CA-21-747. The surplus from that set aside was moved to new construction surplus. CA-21-710 was added, but two projects were bumped from that pool: CA-21-763 and CA-21-676. That provides awards to 62 projects for just under \$1.638 billion.

Committee Comments:

Public Comments:

Doug Shoemaker of Mercy Housing asked to confirm they were added back to the ELI/VLI pool.

Ms. Burgos acknowledged they were.

Mr. Sertich stated this affects the CTCAC side. He expressed concern that some of the projects being approved have requested state tax credits but will not receive those credits. If the projects are not able to move forward without the tax credits, the regulations allow for 90 days to replace those funds. He urged the projects to return the funds as soon as possible if they cannot fill the gap. He asked what the plan is if the project comes back in a week to return bonds.

Ms. Burgos pointed to the regulations - any reversion before the end of the year would go to new construction projects. They would be sorted from highest to lowest tiebreakers and make awards from top to bottom with no provisions for skipping. Any project awarded has 20 days to return bonds without penalty. However, projects being awarded that do not get state tax credits have 90 days to fill that gap without consequence.

Mr. Sertich pointed out the majority being awarded in geographic regions and new construction are also requesting state tax credits. He asked if there was a grey area to allow those bonds to be



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reallocated within the geographical reason. He expressed concern that the awards would go from some of the higher cost regions to the lower cost regions otherwise.

Ms. Burgos stated there is a waitlist of the remaining projects, sorted from lowest to highest with no other differentiation of region, etc.

Ms. Robles restated allocation returned before the last day of the year, if they are put back in the geographic region, that, if available, they would find the next item in line. If that is the case, the committee would need to grant her, the Executive Director, the authority to approve those projects since there would not be time to bring it back to the committee for approval, which is farther down on the agenda.

Mr. Sertich clarified they are not approving a waiting list and expressed concern that there would not be a geographic distribution, and it would encourage developers to have the funds remain in the region.

Ms. Johnson-Hall asked if bonds [allocation authority] are returned after January 1st, will returned bond cap go to the issuer as carryforward?

Ms. Burgos confirmed that is correct. She further asked how much bond cap could be left over.

Ms. Burgos stated if the awards are made as they are, there will be approximately \$1.9 million leftover from the 2021 bond cap.

Public Comment:

Yusef Freeman, the Senior Managing Director of the Jonathan Rose Companies, thanked the committee for bringing up the issue of geographic equity. He pointed out the scale they are discussing, regarding deals receiving bonds but not credits will be north of \$500 million in bonds that could come back. Reviewing geographic equity, the higher cost regions such as Los Angeles do not have additional projects there. He suggested having those funds go to future allocations within those geographic regions. At this scale, and the amount of projects potentially needing to return funds, there won't be the geographic diversity the committee is aiming toward.

Cherene Sandidge of the Black Developers Forum stated there were two projects removed from consideration and wanted to know how that happened if the list was being approved last week. She asked if they should have submitted for reconsideration in the way of an appeal after those issues are addressed, since it did not seem like something did not calculate correctly.

Ms. Burgos stated when the funds were added to the ELI/VLI pool, it shifted how much went to the new construction pool. When that amount was shifted, some projects were pulled up. The two projects that got bumped, scored lower than the ones that were pulled up.

Ms. Sandidge ask how the two projects got shifted if the list was previously approved.

Mr. Sertich stated there was not a list previously approved.

The Treasurer specified this is the first list being approved since August.

Ms. Sandidge asked how CA-21-763 and CA-21-676 fell out.

Ms. Burgos clarified there were additional monies added to new construction which allowed CA-21-710 to move forward, which had originally been skipped since it was too large, and did score higher than the two projects which were bumped.

Ms. Sandidge requested to have the numbers and the lists shared, so the public can see how decisions are made on funding.

Ms. Burgos confirmed they will be posted when the meeting ends, or early tomorrow.



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Alice Talcott of Midpen Housing stated when the committee decided to put the reverted funds in to the ELI/VLI pool, only a portion of that will go to the ELI/VLI pool and more money would go into the new construction pool. Their project in San Francisco was the last [on the list] not funded in the MIP pool for \$14 million, and there was too little in the pool to fund it. The project is not requesting state credits so can immediately move forward. She pointed out projects not in the specified pool are being funded but may not be able to move forward. She wanted to raise that up, so that projects that can move forward can get funded.

The Treasurer specified that is what is being evaluated since there may be up to \$470 million allocated without tax credit estimating about 14 projects. They are encouraging developers who cannot close to give funds back as soon as possible, which may free up funds for projects not requesting state credits.

Mr. Sertich stated they may want to consider this at the end of next year, with the other pieces Ms. Sandidge brought up regarding skipping. They should review how those are being allocated so there are not projects coming in and going out as more money becomes available, with a third of the projects losing out.

Ms. Johnson-Hall asked for her staff, Kate Ferguson, to speak.

Ms. Ferguson stated their developers are given 90 days to fill the gap left by lack of state tax credits. CDLAC will ask the developers who can determine if it is not possible to let them know by the end of the year so it can be reallocated. For developers who choose to use the entire 90 days, any bonds allocated related to those deals, may be returned in 2022, and would become carryforward. She asked if it was up to the issuers to determine where the bonds would go.

Mr. Sertich stated the committee would need to approve the projects.

Ms. Ferguson thanked Mr. Sertich for the clarification then asked how much bond cap is being allocated with a state tax credit cap.

The Treasurer stated it is estimated to be \$480 million.

Ms. Ferguson clarified there is the potential for \$480 million if the gap cannot be filled.

Todd Cottle with C&C Development is with CA-21-676 which was removed from the list, reiterated some of the conversation surrounding returned bonds potentially being allocated to projects within the geographic regions. He stated they are in support of that but asked if the committee would consider funding bumped projects before sending the money to the geographic regions, especially considering his project is shovel ready.

Jeff Jager with Standard Communities has a similar issue as previous speakers, specifically in the shortfall of the state tax credits. There are deals that don't need tax credits, such as one in the Bay Area New Construction pool, which is ready to go. The deal was at the cutoff line, above the threshold for points, but there was not enough volume cap remaining. He asked there be a method for reallocating before the end of the year. Some of the volume cap will extend through next year since some developers will wait the full amount of time to fill the gap. He asked the carryover allocation stay with the issuers since there are some deals with those issuers, if there will be the ability to go back to the committee to get an award to fund those in the near year as well.

The Treasurer stated the committee members are still debating that question.

Darren Bobrowsky of USA Property Funds agreed with Mr. Sertich. He wanted to raise a potential issue in that in the Bay Area, a project is being skipped that is not requesting state credits, but the project below is being funded with a lower tiebreaker, and that project is requesting \$11 million in



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tax credits, which may not be able to be filled. The Bay Area will end out being shorted. He reiterated Ms. Talcott's suggestion of considering not allocating the \$85 million to the ELI/VLI pool, but use it to fund the overages in the geographic pools where projects are a little short of bond cap and are not requesting tax credit to maintain a proportionality of bond cap being used in the geographical region. If the committee relies solely on bond cap being returned, the bonds may go to fund projects that have a lower cost to develop and not in high cost to develop areas.

Samir Srivastava with ABS properties stated his project is CA-21-714, will not get state tax credits since there are not enough. He stated if they return the volume cap, they will reapply next year at a higher cost. He asked if there was a way for the committee to help fund the gap so the project can move forward. He further asked if they reapply, can they change the parameters, restructure the project and change the point score or tiebreaker in order to make it work.

The Treasurer stated that is what they are discussing.

Capri Roth with the Easy Bay Asian Local Development Corporation asked Mr. Velasquez if the \$480 million could be reduced if some of the California Housing Accelerator program, on the eligibility list, could be used to bridge the gap.

The Treasurer asked if any of the projects intersected with HCD's program.

Mr. Velasquez stated there may be potential for that. He went on to state he was checking with his team to see if the statute does not have a restriction, as part of the second tier, there could be a possibility some projects could apply to fill the gap within the 90-gap left by not getting state tax credits. He specified, this is for projects that have an HCD award in them, it would be a matter of CDLAC and HCD staff working together to identify what those projects are, yet needs to verify if there are restrictions surrounding that.

Mr. Sertich appreciated the idea of using those funds for this purpose but does not want to give false hope to those projects potentially delaying the return of the bonds.

Mr. Velasquez agreed with Mr. Sertich that the committee should not take HCD into consideration when deciding what to do with the gap left by not having state tax credits, and staff can work together on it later for projects that have an HCD award.

Ms. Miller stated a decision needs to be made today since most developers take the full 90 days, if they want the \$85 million to be used for projects not relying on tax credits. This would require the committee to rescind the action where the bonds went to ELI/VLI.

Mr. Sertich stated the \$85 million is a separate argument from the \$480 million. He stated the \$85 million can be put in any of the pools and putting it in ELI/VLI as the committee has done in previous meetings makes sense, but having it go back to reversion does not make sense or solve the large issue they are debating.

Ms. Johnson-Hall agreed with Mr. Sertich. She asked if there could be an accounting of the issuers who would have carryforward as a result of the lack of \$480 million in state tax credits.

The Treasurer stated there are staff with this information.

Ms. Johnson-Hall asked what the penalty is for developers who take the full 90 days, or if there is one.

Ms. Burgos stated there is no penalty as they have 90 days to return the allocation if they cannot fill the gap. Part of the reason for last minute changes on the list was due to some developers immediately returning the allocation when they learned they would not get state tax credits.



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William Leach of Kingdom Development pointed out some of the returned allocation may go to a project that may not be able to use it. He recommended having staff prepare a waiting list of projects not needing state tax credits, instead of a list littered with projects that may not be able to move forward. He pointed out there may be a future need to have regulations in place regarding this and reevaluate how carryforward works. Currently, carryforward an issuer may have goes to the highest-ranking project, regardless of there the project is located. Mr. Leach stated he believes this causes a lot of question on how much each region gets. He went on to state there are a couple ways to handle carryforward, and if there is a lot of carryforward to consider spreading it evenly throughout the pools instead of at random.

Ms. Miller agreed with Mr. Leach, since the allocation needs to be returned by the end of the year in order for it to be used most efficiently and wanted to review this for next year. There are projects not needing state tax credits that could go through and increase production, but the 90 days is past the end of the year. She also agreed with splitting the list to indicate projects needing state tax credits and those not, which may also increase production.

The Treasurer agreed if the committee could award any excess that comes back to those projects not needing state tax credits in an effort to best use the resources. She agreed with Mr. Leach's concern about projects being reallocated funds, but still not being able to use the funds by the end of the year.

Mr. Sertich generally agreed, but stated he worries about awarding projects in the wrong order, if they have the authority to skip higher scoring projects on the waiting list.

Caleb Roope of Pacific Companies and the working group asked if any of the developers were on the list who notified staff they would not be able to go forward.

Ms. Burgos stated they were not, which was the reason for the changes on the final list.

Mr. Roope stated he has several projects on the list not getting state tax credits. He stated he will lead by example and encouraged developers to immediately notify staff the money can be available for projects to go forward that do not need state tax credits. The regulations specify a waiting list needs to be established after the meeting, in rank order without the ability to skip projects. CTCAC has delegated the Executive Director authority to call developers to ask if they can use the allocation and move down the list that way. He further encouraged developers to return bonds if they cannot fill the gap as soon as possible. Mr. Roope stated there is \$100 million he can return, so they can start moving down the list to call to see if allocation can be used. There are 8-9 developers with this situation being presented, and only a couple of the projects can likely make it without the state tax credits, stating one of his may be able to, but is not yet sure. He asked what staff's capacity is to review applications before the next meeting, get through the list, know what projects can score and be funded, send the allocation to the issuers as carryforward, and from the waiting list, as applications can be reviewed, officially award those allocations at the following meeting instead of scrambling at the end of the year. He further encouraged developers to return allocation as soon as possible, then have staff process applications as they have time, then have the shovel ready projects move forward now. Mr. Roope specified the last project that popped up is one of his projects and has a large state credit request, so he is not going to take it. He stated there are enough developers on the list that will do the responsible thing and return the allocation since the state tax credit requests are so large and have a way for staff to move down the list of projects not needing state tax credits. He identified he will be returning over \$100 million plus the allocation from the EI



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Dorado project, which can go to the waiting list. Mr. Roope asked what state tax credits may be available toward the end of the year, if they come in after the first of the year, if they go back in to that pool for the next round, or what happens with them. He said developers hold out the hope there will be some pathway forward.

Mr. Sertich thanked Mr. Roope and encouraged developers to return their allocation if they cannot move forward with their projects.

Ms. Miller agreed with Mr. Roope, stating if funds are returned before the end of the year, the committee has more control over the funds and the ability to increase production, and is willing to work over the weekend to do what she can.

The Treasurer asked how long it takes to go through applications.

Ms. Burgos stated for CDLAC, it takes approximately one to two days per project, which does not include the week or so to correct deficiencies. Additionally, CDLAC is required to review and send letters for every DDA preservation before the end of the year, so there are some other important things that need to happen before the end of the year.

The Treasurer stated there has been a lot of leniencies regarding curing deficiencies since previously applications were denied completely. Developers requested some flexibility and pointed out it takes away from staff productivity to request that information. She asked if it has gotten better.

Ms. Burgos shared she has seen an improvement, it is a cooperative process, but can be time consuming. There are fewer appeals, which shows the level of understanding and cooperation has increased.

The Treasurer thanked everyone for working together on this.

Ms. Johnson-Hall offered her staff to help with the reviews, which they have done previously, especially if it helps move shovel ready projects.

The Treasurer reiterated they are trying to hire staff, but it takes longer due to COVID, taking as much as 6 months, so appreciates Ms. Johnson-Hall's willingness.

Ben Barker of the California Municipal Finance Agency stated he went through the list, and it seems to be mostly CMFA, CalHFA, and CSCDA deals, which makes it easier for staff to work with. Issuers can't issue bonds until they file tax forms. As they figure out how carryforward will apply, they cannot legally close 2021 deals until they have filed their tax forms. There will be many deals, because of how the closing deadlines are in January, there could be many deals unable to close since they can't close due to carryforward. He reiterated Mr. Roope's plea to developers to return the allocation as soon as possible since it would cause all the developers delays in closing. Since there would be no meetings, there would just be failed issuances.

Mr. Sertich stated there should be a cut off date for whatever issuer is assigned the money, it is just considered carryforward, whether it stays with that project or is carried forward to another project.

Mr. Barker stated it is easier with only a few issuers carrying the bulk of it.

Mr. Sertich asked if there issuers who were not frequent users of the program.

Mr. Barker stated he did not see any, that it is mostly CMFA and CalHFA, so could not see any issues.

Ms. Burgos stated the Housing Authority of San Diego, and one with the City of Los Angeles were part of the list, and are often-seen issuers.

MOTION: Mr. Sertich motioned to approve the list as recommended and read by staff most recently.



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Ms. Miller seconded the motion.

Motion passed unanimously via roll call vote.

8. Agenda Item: *Request the Committee Grant Delegated Authority to Executive Director to Allocate Remaining and Reverted Volume Cap* – Presented by Nancee Robles

The request is to grant authority to the Executive Director delegated authority to distribute year-end allocation or reversion to the top three issuers, as a consistent method going forward and to avoid additional committee meetings at the end of the year in order to make these decisions. In May of 2021, staff responded to the State Auditor regarding how remaining resources were distributed by reporting the Committee's decision to allocate \$79,385 of remaining resources in 2020 to CalHFA to be used as carryforward for 2021 projects. The Auditor's response was, "The Debt Limit Committee should also consider demand for bond resources use of previous allocated funds, documented legislative priorities, and risk of allocated bonds being lost, which has not been done." In conversations with the auditor, they indicated a consistent methodology based on these factors given would satisfy the request. Staff analyzed the last two competitive years and determined that the auditors request could be fulfilled by awarding remaining resources to the top three issuers in any given year since they meet the demand to have successfully and continuously issued bonds, meet legislative priorities by providing affordable housing, and have not lost bond allocation in the past. Granting authority today to the Executive Director creates a consistent method and eliminates the need for year-end meetings for the Committee to make this decision.

Committee Comments:

The Treasurer clarified the recommendation is for the bonds to be equally divided by the top three issuers.

Ms. Robles agreed. She went on to report there is no 2018 carryforward remaining, the City and County of San Francisco is the only issuer holding 2019 carryforward in the amount of \$12 million and is not one of the top three issuers in the last two years, and all of the 2020 carryforward was utilized. Ms. Robles stated this has occurred since the new regulation went in to place that the staff assign carryforward to the top ranked projects on the list.

The Treasurer recapped that her first year, the committee voted to allocate the remainder of carryforward to CPCFA. The second year they voted to allocate carryforward to CalHFA and did the same last year. The lack of consistency is what the Auditor does not like to see, therefore the proposal is to split what remains equally to the top three issuers.

Mr. Sertich agreed it makes sense from a carryforward perspective the projects would still need to be approved by the committee and be Qualified Residential Rental Projects. He acknowledged there is less and less carryforward due to the hard work of staff and developers. Mr. Sertich specifically wants information on how to move forward on reverted monies.

Ms. Johnson-Hall asked who the top three issuers are.

The Treasurer restated they are CMFA, CalHFA, and City of Los Angeles.

Mr. Sertich asked if the plan is to give basic direction on how to award allocation of reverted funds, if there would be an additional meeting or to delegate the authority to award those projects from the waiting list.



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Ms. Burgos shared the regulations state - at the last allocation committee meeting of the year, the Committee shall establish a waiting list of new construction projects exclusive of rural projects that have not received allocation in the final round, ordered from highest to lowest ranking. In the event the allocations are returned after the final allocation and prior to the end of calendar year, the Executive Director may allocate bonds to projects on the list in order.

Mr. Sertich verified if they need to approve a waiting list or not.

Ms. Burgos stated the regulations specify the Committee shall establish a waiting list but the list is already established in rank order, according to the regulations.

Ms. Miller stated she was comfortable with what was done before, giving the remaining allocation to CalHFA, especially since they are one of the top issuers. However, she stated she does want it to be consistent. She asked what the benefit is in dividing the funds between three since it is not much money.

The Treasurer reiterated it speaks to how efficient the system is, as well as how competitive. There are many developers who have projects, and it is a public/private partnership, which is why all should have an opportunity. The Treasurer called for comments from the public.

Public Comments:

Ben Baker with the California Municipal Finance Authority stated the Executive Director needs to have this flexibility due to the reversions that come back every year. If CalHFA received all of the reversion, but needed to close on the first or second, they would not be able to get all of the reversion back from CDLAC, so there would be wasted volume cap, which is what happened a couple years ago. That necessitated the reversion moving around before landing on San Diego Housing they had not filed yet. The goal is to not waste what does come back.

Jeff Jager with Standard Communities asked for clarity, stating there seems to be a process for the end of year with people returning their allocations, and having a process to reallocate it. He asked what would happen if someone takes the full 90 days and it does not come back until next year.

The Treasurer stated there would be no penalties.

Mr. Sertich said it would go to next year.

Mr. Jager asked if there are different projects that are ready to go, can the allocation be preserved and not have to reapply at a higher construction cost.

Ms. Robles stated that could be considered for the future, but that is not how the regulations are currently written.

MOTION: Mr. Sertich motioned to grant delegated authority to the Executive Director to allocate carryforward to the three issuers as designated per staff's recommendation. The Treasurer seconded the motion.

Motion passed unanimously via roll call vote.

9. Agenda Item: *Presentation of Strategic Plan by Sjoberg Evashenk Consultants* – Presented by Nancee Robles

George Skiles gave a presentation. See Attachment 1 for presentation.

Committee Comments:



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The Treasurer verified Sjoberg Evashenk interviewed staff, and asked if Stakeholders were interviewed.

Mr. Skiles stated they had not [interviewed stakeholders], that they were focused on the internal operating condition of CTCAC and CDLAC. They are willing to speak with stakeholders and share their experience. He stated he will make his contact information available.

The Treasurer stated they have a robust stakeholder group, with a large working group, and encourages them to reach out to Mr. Skiles. She thanked Mr. Skiles for their work and recommendations, acknowledging it is not easy for staff when there is a lack of standard processes or automated processes, etc.

Ms. Robles echoed the Treasurer's appreciation.

10. Agenda Item: *Discussion of Distribution of 2022 Allocation to Pools* – Presented by Nancee Robles

In the last meeting, Executive Director Robles stressed the need to have all of the outstanding emergency regulations put in to a permanent package to go through the approval process with the Office of Administrative Law before creating new emergency rule making for the 2022 regulation changes. This could seriously hold up affordable housing production. The Committee agreed to hold the first round of allocations and awards under the existing regulations, and the second and third rounds under the new regulations. There is now a need for discussion on how the 2022 volume cap will be distributed. There are two factors: what percentage of allocation should be distributed in each round, and what percentage of allocation should go to pools established for Round One and how it will be disbursed after Round One, and if any categories will change. Staff looks to the Committee for direction for proposals to take to the January 19, 2022 meeting.

Committee Comments:

Mr. Sertich asked if this is a discussion only on Qualified Residential Rental Projects, or overall allocations.

Ms. Robles confirmed this is regarding overall allocations.

Mr. Sertich stated starting high to low makes more sense than the other way around. When discussing overall allocation, one thing to keep in mind the subsidies for the different kinds of bonds. With the multifamily allocations, there are also 4% tax credits to consider, tax exemptions on single family bonds, and the value of the mortgage certificates. All of the programs are valuable to the state, to include home ownership, pollution control, waste facilities, transportation facilities, etc. Mr. Sertich stated if they can find a way to leverage as much federal money as possible to multi family, then use other state programs to subsidize the other programs, it could be a way to grow the pie, so more allocations can go to the state as a whole. It's not that simple, but with the current surplus of the state, the programs exist such as CAEATFA and CPCFA for some of the other exempt facilities, and CalHFA, HCD, and CalVet for home ownership programs. Leveraging these programs can help drive home ownership and exempt facilities to stretch the federal funds.

Ms. Johnson-Hall wanted to explain CalHFA's bond needs for 2022, as previously laid out in a demand survey for the Committee. She wanted to revisit it, in light of decisions made at that last meeting, stating they would need \$650 million in the mixed income pool in order to run a viable mixed income program. In addition, a bond need was identified for \$396 million for CalHFA's Conduit program, which is not specific to any pool. She reminded the Committee the MIP was



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created to deploy a continuous revenue source allocated to HFA by the legislature under SB 2, specifically for MIP. They need the \$650 million in bonds in order to affectively deploy the SB 2 revenues available for next year. They are anticipating an allocation of state tax credits for the MIPs and have submitted a request for that as well. The MIP is an important component of maintaining a balanced CDLAC system. A robust MIP allocation will blunt the affects on production that they are going to feel and will likely see in the regulatory changes in 2022. MIPs are some of the most cost efficient in the CDLAC system and are often the fastest to execute while promoting fair housing by providing integrated living patterns, and inclusive communities. They feel strongly to efficiently run their program and capitalize on speed, CalHFA needs the entirety of allocation available in Round One.

The Treasurer clarified that they previously allocated \$450 million.

Ms. Johnson-Hall started that is correct but have a pipeline in excess of \$625 million. They have a defined pipeline of \$650 million, which they believe they can deploy quickly, and are poised ready to do that. She specified \$650 million needed to meet the minimum needs of the program.

The Treasurer stated they try to fund in three rounds, so allocating all in one round is not something they have discussed.

Mr. Sertich stated in the past they have moved money around, from one round to another, and can be discussed. However, he stated if there are three rounds, they would likely want them to be as even as possible, across the three rounds, especially in light of the discussion of running out of state tax credits on the CTCAC side.

Ms. Johnson-Hall concurred with Mr. Sertich about allocating over three rounds. She pointed out the longer you have a shovel ready project out, the more it costs. By delaying these shovel projects, it only adds more costs and makes them less efficient. Ms. Johnson-Hall reiterated they have shovel-ready projects ready to go now and urged the Committee to get through the projects as efficiently as possible by not making them apply in different rounds, that the pipeline is quite deep.

The Treasurer asked what Ms. Johnson-Hall meant by “ready to go” since there are usually other things to consider such as financing and the banks won’t allow the money to be open all year and asked about loan commitment letters.

Ms. Johnson-hall clarified that was not regarding the entire pool. The projects that were not allocated in 2021 will carry over to next year. In order to apply for the program, they need to have initial commitments, full entitlements and approvals, as are the requirements for the SB 2 program.

Mr. Velasquez welcomed the comments on the pools and set asides but won’t have much to say regarding the volumes and distributions. He wanted to give some clarification on the Administration memorandum since there were some details related to regulatory changes that have yet to be discussed. He asked if those were necessary to take back to the Committee or if it could be a staff-to-staff conversation to deliberate on those points that were included. Some of those points were related to the pools and set asides, for example the Committee had made a recommended change to the homeless pool, the 49% instead of 100% of homeless units. It is less to do with the volume in the set asides, and more how to determine the pools and set asides.

The Treasurer stated Mr. Velasquez and Ms. Robles can meet afterward to determine if another committee is necessary or if it can be a staff-to-staff conversation.



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Ms. Robles asked if this was the memorandum put out on the memorandum, which has to do with regulations. She specified there will need to be another meeting to discuss this since it will need to be agendaized.

The Treasurer mentioned Mr. Velasquez providing another memorandum outlining what has yet to be discussed.

Ms. Miller stated if there will be another Committee meeting, asked if today's meeting can be broad and brief, then discuss the final regulations more in depth before the end of the year with more clarity on pools, then make final decisions regarding the pools in January. Ms. Miller asked to see the demand survey in writing since it could be helpful.

Ms. Robles stated it is published on the website and encouraged the Committee to look at the demand survey as projections for next year. Though the demand may say a certain amount, it does not mean that is how many applications will come in. She urged the Committee to review the demand survey against what has been received over the last couple years. Ms. Robles offered to send over additional information to Ms. Miller that she had requested. Specifically, Ms. Robles asked the Committee members to evaluate in all the categories, the applications that did not receive awards for what the totals were, locations, how many units were to be produced, etc, since that is more indicative of how many are shovel ready.

Mr. Sertich acknowledged the demand survey is helpful to see what the demand is to evaluate the pools and pointed out exempt facilities had about \$400 million in demand, which is the same on the multi-family side. It is useful for the Committee to determine how to use the pools to drive their priorities.

The Treasurer asked for clarification on the survey, that "units" should say "projects". The Treasurer summarized that when they discussed rent savings calculations, one way to moderate that those who may not win based upon higher rents would have the ability to compete with the tiebreaker categories.

Mr. Sertich stated reworking the categories rather than having the set asides and geographic separate, they are combined in a way. For example, if all of the projects in the Coastal Region are winning with ELI/VLI, there would be less available in the geographic region, which could help with geographic equity. Mr. Sertich reiterated they are going to be revisiting it to make sure it works. The Treasurer called for public comments.

Public Comments:

William Leach with Kingdom Development advocated for more resources more geographically distributed. He agreed with Mr. Sertich's statement of having the set asides count against the larger geographic apportionments. Certain geographies will do better or worse in state competitions based upon the new scoring system, and also what is in place now. He stated the more resources in the hands of the regions, the more likely there will be geographic equity.

Mark Stivers with the California Housing Partnership spoke to what programs the Committee allocates bonds to. The leverage opportunity when putting bonds into the residential rental program is \$0.80 on the dollar. For every dollar allocated, there is about \$0.80 in 4% low-income housing tax credit equity. If Build Back Better passes, the leverage will go up to about \$1.50 or so. If all of the bonds go to rental housing, the state stands to gain. \$1 billion in bonds is about \$10 million in present value of interest savings over the life of the project. Mr. Stivers stated it would be smart of



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the state to give a \$10 million grant to some of the projects rather than use bonds for that purpose. It has the same benefit to the project and is a better investment for the state. Regarding the regional discussion, following up on what Mr. Leach said, Mr. Stivers said his preference is to apply the regional allocations to new construction pool and count the set asides toward the regions instead of moving bonds from the set asides to the regions. This still ensures there is a high percentage going toward the homeless and ELI/VLI population. Looking at all the awards in the new construction across the regions and set asides, the regional level makes the most sense.

Andrea Leon-Grossman with Azul stated that she also spoke on November 17 regarding the choice before CDLAC to provide \$1.1 billion to Brookfield Asset Management and Poseidon so they can [indiscernible] the water supplies. She encouraged the Committee to direct those funds to desperately needed affordable housing to support California. She acknowledged Ms. Burgos reaching out to legal to inquire about adequate access for the public. Ms. Grossman said the current public platform of conference call is not the best method to communicate. They are unable to see slides shared during the meeting via Zoom. There are many who would like to participate on specific important issues and hopes the public agency who issues billions of dollars would have access to platforms the other agencies use. Most agencies use zoom, and asked CDLAC to return to this platform. She requested a recording or transcripts of the meetings instead of minutes which are summarized notes, as well as access in Spanish. Ms. Leon-Grossman further stated she hopes Californians suffering from the worst effects of the ongoing crisis are served affordable housing funds before they are allocated to for-profit issuance. Privatizing the water supply instead of affordable housing has generational affects. The Committee's decision will echo for decades. Driving \$1.1 billion to affordable housing triggers nearly \$1 billion in federal funds. Failing to do so will prevent those funds from going to the elements that will work to solve the housing crisis and reduce affordable housing funds. She urged the Committee to choose California over multi-million-dollar corporations. She pointed out CDLAC is consistently oversubscribed, which means CDLAC will be making multibillion-dollar decisions without clear metrics on how they are doing so. The scoring system prioritizing projects seems to be the appropriate way moving forward allowing the public to participate in the process and understand how the decisions are made. The scoring system should also consider the metrics [indiscernible], environmental justice procedures, and source of energy. Ms. Leon-Grossman continued - the negative environmental effects surrounding Poseidon and the potential lack of affordable housing should Poseidon get an allocation.

Alejandro Sabrera (spelling?) of Orange County reminded the Committee they should be using funds to primarily help low-income Californians find affordable housing. It is important to remember California is in a crisis with too many people living on the streets. The desalination plant has applied for \$1.1 billion and is unacceptable. The company in charge of the project was praised by Wall Street for using state resources for private benefit. In 2012 Poseidon received an allocation of \$332 million in private activity bonds to finance the bulk of the construction, which is owned by a foreign private equity firm. The focus should not be on funding foreign companies, it should be on projects that will help California. Investing in affordable housing also triggers federal tax credits, therefore funding Poseidon means California loses out on \$1.9 billion in investments that could go toward housing Californians. He urged CDLAC to deny Poseidon, and direct at least 95% of federal activity private bonds to housing projects. He reiterated comment of Ms. Leon-Grossman that the public should have access to audiovisual of the Committee meetings, especially since the Committee is allocating



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so much money there should be more modern forms of communication. Offering public testimony at the end of the call means he needs to be on the phone all day while working, and urged the Committee to consider taking public comments at the beginning of the meeting.

The Treasurer clarified Poseidon has not applied for allocation, and requested callers simply echo previous speakers or offer new information.

Susan Jordan, Director of the Coastal Protection Network, stated there is an active approved application with CPCFA for \$1.1 billion for Poseidon. They have applied, and received an approved initial resolution, and is active through 2022. They have applied for \$1.1 billion and the total pool for exempt projects last year was \$600 million. This is an initial discussion, and acknowledged this discussion is what leads to final decisions. It is important for the public to weigh in early so they are understood and that is why there are so many testimonies. She agreed with other callers about using a better platform for Committee meetings, siting other agencies use Zoom to improve communication. Ms. Jordan thanked Ms. Robles and Ms. Burgos who were very helpful, understood the concerns, and reached out to facilitate communication. She reiterated it is difficult to follow along without visuals on what is presented.

The Treasurer stated she has not seen the application for Poseidon.

Ms. Jordan offered to fax it to the Treasurer since she has it.

Ms. Robles stated CPCFA has received an application for an initial resolution, but there are two more steps before it goes to the CDLAC board. They would need a final CPCFA resolution before applying to CDLAC. CDLAC does not have an application at this point for Poseidon.

Ray Hiemstra, Associate Director of Orange County CoastKeeper, echoed other speakers. He said it is easy to not hear about Poseidon and asked the Committee to be clear they will not give what is being asked for. The Committee needs to focus on housing in California, expressing he is concerned about housing for his daughter and granddaughter. Additionally, there is a lot of discussion about projects being shovel ready, Poseidon has been dragging on for 20 years because there are no customers. The Committee needs to broadcast allocations will go to housing.

Greg Rodriguez, the Government Affairs and Policy Advisor for Riverside County Supervisor Perez, stated Perez is part of the advisory Committee on homelessness, and many discussions center around the need for better tools in rural areas to provide permanent and affordable housing.

Recently, the issues of rural affordable housing were brought up and inequity in the weighing and set asides. As the Chair of the county's COC, they are doing excellent work in Riverside County with outreach, case management, and transitional housing, but are lacking affordable housing.

Regulations are basically set but wants the Committee to review how the regulations are preventing in the Inland Empire and Coachella Valley to qualify for tax credits. Transit requirements and weighting measures are impossible for them to meet, and cannot be expected to meet the RHNA numbers if they are not provided the tools to do so. They need to review how to increase the rural set aside to counter the inequity of current and future regulations. It should be at least 20% set aside for rural allocation as a majority of the unincorporated counties are rural, it is critical to increase the rural set aside to meet the RHNA numbers, let alone the need for affordable housing.

Riverside County is the fastest growing county in the state, seeing resident moving from Los Angeles, Orange County, etc since it is more affordable. This growth has caused an alarming increase in housing costs. Mr. Rodriguez shared in two years, the value of his home has \$475,000 to \$625,000. He and his colleagues get daily calls regarding seniors and residents who cannot afford



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their residences. In coordination with Lift to Rise, the county has concrete plans for building affordable housing, but cannot accomplish these goals without targeted assistance.

Theresa Gunn, Deputy Secretary of the Department of Veteran's Affairs Home Loan Program, provided an application [a request] for an allocation for next year. She wanted to comment on CalHFA's request to have the full funding available during the first round. If the first round funds that entire program, it may disallow the Committee from funding other programs such as hers, that needs the allocation before moving forward with providing veterans loans for their homes. She discourages using the entire allocation for one program.

Eric Tiche with CalVet wanted to confirm the Committee received for consideration their \$100 million first time home buyer program allocation requests for issuance in 2022. Without this funding, they cannot provide home loans to low-income veterans and their families. In a 2020 resolution 47% went to veterans with service-related disabilities, as well as many minorities and wounded veterans. They receive letters of thanks daily, expressing how happy they are to make their home theirs, and building home equity. In addition, the allocation funds the CalVet residential rich neighborhoods, veteran communities. These communities are 100% affordable housing. This request helps serve veterans and low-income communities, and does it at zero cost to tax payers.

Mike Walsh with Riverside County reiterated what Mr. Rodriguez said. Compared to other state programs, there is a rural set aside that has a 5% cap, and the 9% competition is 20%. The multi-family housing program is 20%, the state program is 10%. There are a variety of housing needs, but placing a cap on rural set asides at 5%, even if in their region they cannot compete unless it is homeless projects. This means they need to either erase the cap, or create additional flexibility. Mr. Walsh stated he was at an unpermitted mobile home park that the state awarded \$30 million to relocate, in rural Riverside County. They cannot effectively move forward with a 5% threshold floor. He encouraged the Committee to prioritize resources to the residential rental program. It is an important program and feels it is in greater crisis than the other ways of achieving home ownership and other programs. They have other avenues that do not exist for multi-family projects.

Nancy Ricana with [indiscernible] is concerned about the possibility of giving \$1.1 billion to Poseidon. They are spending a lot of money trying to change public opinion about the public's need for Poseidon's facilities. She echoed other speakers, and wanted the Committee to be clear the money would go to affordable housing and not to a multibillion dollar corporation.

Lydia Ponce from Venice gently reminded the Committee the entire state of California is depending on them. This is regarding the pandemic and a shortage of water, and asked how anything can be made important without including indigenous people to guide them and look over the projects. They disagree with Poseidon, and are losing federal subsidies. The plans the Committee is making has no room for desalination. They need permanent, affordable housing. When offering an alternative, natives are hurt. For the last 30 years, Ms. Ponce stated she has witnessed the gentrification of Venice and the people who can no longer afford to live there being forced to move.

Cherene Sandidge of the Black Developer's Forum wanted to address item 10, the allocations to the pools. She wanted to voice that there needs to be more consideration in terms of geographical allocation for the BIPOC pool. They don't want to get in to a situation where funding is not needed in one area, and precludes another area to receive funding. The applications are put together by small community based organizations. Ms. Sandidge wanted to make sure they could get in to the system and get funded, and reach out to other BIPOC if they need help getting through the system.



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They need to let the process work strongly with the help of the Committee. In terms of geographical allocation, because it is a statewide organization, when the Committee splits the minorities again, it becomes problematic. They are asking for more consideration and time, and hopes that is not the direction the Committee moves forward in.

Melissa Fox from Coachella Valley wanted to echo Mr. Rodriguez. She is an advocate for affordable housing. What they are seeing in Coachella Valley is a migration of population to an area that has not had sufficient support for affordable housing in the past. The Census is showing large population increases just as resources were reduced in the regulations. They do not have the density to compete on amenities, or the ability to compete with transit, but definitely have a need. They are requesting additional money be put toward the rural pool. She echoed Mr. Walsh about more flexibility in the cap and potentially moving the 5% to the geographic regions. This was one of the points from the Governor's office on Inland Rising, and wanted to see this reflected in the allocations and pools in 2022. There were 45 organization that signed a letter of support for these policies, and that was submitted to the Committee, spearheaded by Lift to Rise.

Veronica Pardo with Resource Recovery Coalition called to support housing in California. Regarding exempt facilities, the company she represents operates small and medium sized recycling and compost facilities who work with local jurisdictions to help California meet their SB 1383 obligations to recycle organic material. Many facilities need to be built, so it is important to make sure the financing of the facilities can continue to be supported as the goals are rolled out.

Charma Edman [spelling?] with the Sierra Club Water Committee and Environmental Justice Committee lives in Los Angeles and wanted to echo many of the previous comments. She asked the Committee to say no to Poseidon. Homelessness is a real problem; her street is overrun with homeless encampments. Los Angeles has a homeless population of 66,000, Orange County has 7,000, and California alone has 152,000, and almost 11,000 of them are veterans, as of last year, and this number has grown. They cannot afford to have money taken away from those programs who desperately need it to support veterans, tribal communities, gentrification, etc. They ask the Committee to oppose Poseidon and support the homeless population.

Mr. Sertich stated it does not seem like much progress was made.

The Treasurer agreed.

Ms. Miller asked Ms. Robles how to efficiently finish the discussion of the regulations and pools before the end of the year and give notice on the regulations.

The Committee Members discussed having an additional meeting and decided on December 22, 2021.

Ms. Miller asked for additional comment on regional versus pools. At present there is 40% to the regions and 60% to the pools.

Caleb Roope with Pacific Companies and the working group stated the working group has not checked in since the tiebreaker was settled but agreed there should be more allocation given to the regions. That would be 60% to the regions and 40% to the pools. He believes there is merit in geographically distributing all of the resources and have the set asides be filled up as the Committee



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specifies like the 9% program [with CTCAC]. Then, for example, if there is a homeless project, it would fill both buckets, geographically and in the set aside.

William Leach of Kingdom Development reiterated that it would be a good idea for the pools to be a certain percentage but have 100% of the resources allocated to the regions.

Ms. Miller asked Mr. Leach to put that in writing to send to the Committee members.

Alice Talcott with Midpen wanted to weigh in on this discussion. The changes to the tiebreaker made earlier in the week can have unintended consequences, so believes it would be a good idea to get a sense of those before moving allocation to the regions. The concern is some of the regions may have counties that cannot compete with other counties. Ms. Talcott stated it is worth it, since this is a large change, to understand what it means. She stated she is trying to get her head around it, and hopes the Committee has some of the data before making those decisions since there may be unintended consequences. She encouraged the Committee to have the first round under the current regulations, to give more time before the second and third round, which could change how much is allocated between the two. Ms. Talcott went on to ask about the regulation process, saying it is unclear when they intend to issue the proposal for public comment, and what the length of that time would be. Given the holiday, she wanted to ensure there was enough time since many will be surprised by the regulations.

Mr. Sertich agreed that once the proposed regulations are posted, it should be out for 30 days.

The Treasurer reiterated they will not be using the new regulations for the first round, so there is not a huge rush.

Mr. Sertich echoed Ms. Robles by stating the OAL process is not fast.

Ms. Robles stated the next proposal to the Committee would be to convert the emergency regulation package into a permanent package. None of the regulations are going to be new, that the Committee has already voted on them. After that, for the second and third round, the proposed regulations do not have a date as it is reliant on how the conversation goes. Although the legal obligation is for a 5-day comment period, they intend to adopt the same process as CTCAC and open it up for public comment for 20 days, but will honor the Committee's request for 30 days.

The Treasurer asked if this would slow down the OAL process.

Ms. Robles concurred that it would.

Mr. Sertich wanted to ensure the full written regulation can be reviewed.

Ms. Robles mentioned having a meeting on January 19, 2022 in her Executive Director's report to adopt the calendar for 2022, to hear what the debt ceiling is and adopt it, review the pools, and other items traditionally heard in the first meeting of the year.

Mr. Velasquez asked if a summary of the regulation package can be made available.

Ms. Robles stated a summary of everything discussed thus far can be included at the January 19, 2022 meeting.

11. Agenda Item: *Public Comment*

There were no additional public comments.

12. Agenda Item: *Adjournment*

The meeting was adjourned at 3:28 pm.



California Debt Limit Allocation Committee

Attachment 1

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

STRATEGIC PLAN PROGRESS UPDATE

DECEMBER 8, 2021

Prepared by:
Sjoberg
Evashenk
Consulting

PROJECT OBJECTIVES

- The California Tax Credit Allocation Committee (CTCAC) hired Sjoberg Evashenk Consulting, Inc., to facilitate the development of a strategic plan that is consistent with the statutory duties of the California Debt Limit Allocation Committee (CDLAC) and the California Tax Credit Allocation Committee (CTCAC). The objective of the strategic plan is to:
 - Evaluate steps the organizations can take to address the State Auditor's November 2020 findings and recommendations, which found that the lack of coordination and planning between CTCAC/CDLAC has hindered each agency's ability to fulfill their respective directives and recommended the consolidation of both agencies and the delegation of CDLAC's bond allocation authority to CTCAC.
 - Better align CTCAC and CDLAC organizational resources, staffing and regulations to achieve the State of California's affordable housing objectives.
 - Identify additional improvements necessary to effectively and efficiently execute the statutory responsibilities and purposes of CTCAC and CDLAC.

PROJECT APPROACH

To meet this objective, we performed the following procedures:

- Reviewed background information, regulations, policies and procedures, standard forms and applications, and other background materials.
- Interviewed more than 70 CTCAC/CDLAC personnel.
- Evaluated the organizational structures of CTCAC and CDLAC, including the allocation of staffing resources to manage growing workloads.
- Reviewed the core programs and services offered by CTCAC and CDLAC, including mapping business processes.
- Evaluated the technological resources available to both agencies, including technology used perform core functions; automate previously manual processes; track workflows and maintain related records; and maintain official records of CTCAC and CDLAC analyses, conclusions, and actions.

As of November 30, this analysis is approximately 70% complete.

KEY OBSERVATIONS

- **CDLAC and CTCAC are well-positioned for greater coordination and alignment, and efforts have been made over the past several years to enhance coordination.**
 - **The majority of tax-free bond allocations issued by CDLAC overlap with tax credit allocations issued by CTCAC.**
 - **The workflows developed by CDLAC and CTCAC (including application receipt, review, ranking, and servicing) parallel one another.**
 - **Both organizations share a similar stakeholder base and often provide allocations to the same developers and projects.**
- **Despite Parallels in Programs and Workflows, the Efforts of CDLAC and CTCAC are Disjointed and Siloed**
- **Both CDLAC and TCAC utilize outdated and antiquated Information Technology that is not capable to meet current business needs.**
- **Several factors impede the ability of CDLAC and CTCAC to optimize the productivity of staffing resources.**
- **Business processes lack adequate standardization within each organizations, and inconsistencies in regulations between organizations create confusion and inefficiencies for applicants and staff.**

PROBLEM #1

- **Despite Parallels in Programs and Workflows, the Efforts of CDLAC and CTCAC are Disjointed and Siloed**
- **CDLAC and CTCAC regulations are not aligned and occasionally conflict, resulting in discrepancies during application review and processing, and inefficiencies for both staff and applicants.**
 - Efforts are currently underway to identify and resolve conflicts in regulations, particularly relating to CDLAC regulations that conflict with CTCAC regulations. We recommend that this continue.
- **CDLAC and CTCAC staff resources are not aligned. Stakeholders submit applications to both organizations for the same projects, and each organization reviews and ranks the applications independently. If problems are identified, each follows up with the developer separately.**
 - While greater coordination between CDLAC and CTCAC may be achieved between the two independent organizations, the overlap between the two organizations and the inherent redundancies associated with dual reviews supports the State Auditor's recommendation to consolidate CDLAC into CTCAC.
 - At the same time, we do not find that consolidation alone will resolve this problem in a cost-effective manner. In addition to consolidation, we recommend that the organization assign workload to staff based on the applicant and/or project, not based on the program (e.g., bond authority or tax credit).
- **Recommendation: Strive to achieve a one-stop-shop model that results in a single point of contact for each project and each phase of the allocation process.**

PROBLEM #2

- CDLAC and CTCAC utilize outdated information technology that does not meet current needs.
 - Current information technology resources rely on paper files and manual workflows, requiring staff to perform their work on paper or in Excel workbooks, only to convert their work to electronic format after-the-fact. This fails to streamline business processes, is prone to error, and requires duplication of effort.
 - Information is stored in the database, network drives, FileNet, and paper files, resulting in an ineffective and inefficient record management process, increasing the risk that records may be lost, and incentivizing staff to save personal copies of records in an *ad hoc* manner.
 - CDLAC and CTCAC utilize different databases to record information related to their allocations; maintaining dual databases make the organizations less agile in responding to updated regulations and efforts to streamline application processes or interfacing with other state agency systems.
 - Databases, which often freeze when in use, do not have the current functionality to generate timely reports necessary to enable management to track performance metrics, volume statistics, or other indicators of operational effectiveness or output.
- Recommendation: CDLAC/CTCAC should implement a comprehensive IT overhaul that results in an information technology solution that manages the workflow associated with application receipt and processing, bond authority and tax credit allocations, compliance efforts, and record management.

PROBLEM #3

- High turnover and sustained vacancies have impacted both CDLAC and CTCAC, contributing to the loss of institutional knowledge and key resources for resolving complex problems; backlogs, overtime, or work that remains unfinished; and the need to outsource certain compliance functions in order to maintain compliance with IRS inspection cycles.
 - While Staff cited operational inefficiencies, the lack of adequate information technology resources, and duplication of efforts as reasons for low morale, they noted three key factors contributing to the difficulties recruiting and retaining staff: (a) restrictive remote work policies, (b) significant travel requirements, and (c) the shortage of adequate office space and requirements to share workstations.
 - This is most felt in CTCAC's compliance unit, where sustained vacancy rates are impacting the division's ability to meet mandatory inspection timelines. Staff cited several factors contributing to the vacancy rates, including restrictive requirements related to remote work and, as the pandemic subsides, the prospect of substantial travel. Recruiting candidates to fill positions with substantial travel requirements and limited to no remote work options will prove challenging to CTCAC.
- Recommendation: Given the realities of today's labor market, consideration should be given to developing remote work options for certain CDLAC and CTCAC positions and reducing CTCAC travel requirements for compliance staff by establishing a Southern California presence.

PROBLEM #4

Business processes lack adequate standardization within each organizations, creating an over-reliance on long-term employees' institutional knowledge.

- CDLAC and CTCAC lack sufficient formal policies and procedures to guide how staff perform their work and apply regulations.
 - Practices often rely on institutional knowledge of long-term staff; as turnover increases, this knowledge is lost.
 - Even standard processes become individualized over time (e.g., Excel workbooks used to evaluate applications), increasing the potential for inconsistencies.
 - Undocumented processes risk breakdowns in internal controls (e.g., receipt of fees and release of performance deposits [CDLAC]).
- Business practices are generally sufficient to complete required tasks by established deadlines (e.g., scheduled committee meetings); in this manner they can be considered effective. However, inefficiencies in the processes result in extra work for staff, creating undue pressure and contributing to a less productive work environment.
- Recommendation: The potential consolidation of CDLAC and CTCAC, and the potential implementation of a new information technology solution, will require the organization to re-evaluate its business processes. In so doing, it should develop formal policies and procedures designed to standardize processes and reduce reliance on individual-dependent institutional knowledge.

California Debt Limit Allocation Committee
Jesse Unruh Building
915 Capitol Mall, Room 587, Sacramento, CA 95814

December 22, 2021

Meeting Minutes

OPEN SESSION

1. Call to Order and Roll Call

State Treasurer Fiona Ma called the California Debt Limit Allocation Committee (CDLAC) meeting to order at 9:00 a.m. Anthony Wey read the phone script.

Members Present: **Fiona Ma**, CPA, State Treasurer
 Gayle Miller for Governor Gavin Newsom
 Anthony Sertich for Betty T. Yee, State Controller
 Tiena Johnson Hall, Executive Director at California Housing Finance
 Agency (CalHFA)
 Gustavo Velasquez, Director at Department of Housing and Community
 Development (HCD)

Treasurer Ma: We do have a quorum.

2. Approval of the Minutes of the November 29, 2021, Meeting (Action Item)

Treasurer Ma announced the Minutes from November 29, 2021, to be approved by Committee. Motion to approve made by Ms. Miller, seconded by Mr. Sertich. No public comments on the Minutes.

Roll call was taken and the motion passed unanimously.

The Minutes have been approved.

3. Executive Director's Report

Executive Director Nancee Robles briefly introduced herself as the Executive Director for CDLAC. She also extended her introduction to include CDLAC's newest staff member, Erin Deblaquiere. Erin is a native of Sacramento who has about 15 years of experience in the Housing industry and has a degree in Zoology.

Executive Director Nancee Robles: Since the last Committee meeting, Treasurer Ma and she attended an outdoor grand opening ceremony. It was the Main St. Plaza Apartments in Annex

on Maine and Roseville which was a unique hybrid project in which they received bond allocation and tax credits in a number of different transactions in 2018. Residents were homeless, on the verge of homelessness, special needs, and veterans. The facility is a beautiful structure in the midst of Old Roseville, close to transportation and the like.

Wait list: 9 projects have returned their allocations—8 of them for lack of tax credits and 1 of them for other reasons, totaling about \$333 million in allocation. We agreed to take those funds to a waitlist as there are 8 waitlist projects waiting to be reviewed for award and they total about \$288 million in allocation. We’re estimating about \$63.5 million to be allocated as carryforward to the top 3 issuers by the end of this month.

Transparency: CDLAC committee meetings have been long, continued, and rescheduled throughout the last few months. Public comments have stated access to the public meetings has been difficult and this has been remedied by going back to inviting the public to the Zoom meeting platforms. Phone lines are also accessible to the public. Likewise, for most of the year, our meetings have been held in person and the public are welcomed to those meetings. All materials viewed during the meeting are posted on the CDLAC website and could be accessed there. Presentations made at meetings and shared on the Zoom screen will also have presentation materials accessible at the website. The public has also requested that any documents related to the regulation discussions be public and those documents be posted online, and those documents have been published under the topic “2022 Regulations Discussion” on the CDLAC website and in the CDLAC Minutes. We are a transparent committee and we welcome input.

That concluded the Executive Director’s report.

Treasurer Ma thanked Executive Director Nancee Robles. There were no public comments on the report.

4. Committee Discussion and Recommendations to Staff Regarding 2022 Regulations

Executive Director Nancee Robles opened up the discussion by explaining that this is a continuation of the discussion for changing the CDLAC regulations specifically as it pertains to the tie breaker QRRP applications. It has been established that these regulations were not going to be in effect until the 2nd Round allocation [in 2022].

Treasurer Ma posed the question: What needs to be discussed?

Gayle Miller: When is the timing? When does Ms. Robles expect these regulations to be approved by the Committee? Please be clear on the timing pinch to ensure that they’re ready by July 1st?

Executive Director Nancee Robles acknowledged that there is currently no clarity on the timing and added: CDLAC is somewhat at the mercy of the Office of Administration Law (OAL) despite there being a small change to the regulations which will allow the Committee to do

the 1st Round of allocations under the old regulations. From there then, the 2nd and 3rd Rounds under the new regulations, and will bring the emergency regulations package to the January 19th Committee meeting, and, after that point, can file a permanent packet for all the outstanding emergency packets for old regulations. It can take up to 6 months for OAL to complete their process. It all depends on how much public comment is received at OAL after that permanent rulemaking packet is filed. If there are any changes made after a public comment period, the public comment period can start over and that's why it could take up to 6 months. Around the month of May is the timeframe in which those regulations are anticipated to become permanent. Therefore, preparations to present a new packet for the new regulations should be made as soon as possible after May.

Gayle Miller: Emergency regulations will be presented to the Committee on January 19. To be clear, there will not be another set of new regulations presented in May?

Executive Director Nancee Robles: Correct. The new regulations in May will be for the 2nd and 3rd Round. May is the estimated timeframe of when a permanent packet will be released. The Committee doesn't have to approve the permanent packet as they would have already approved all of the emergency packets leading up to that point. Once the permanent packets have been complete, CDLAC will present an emergency packet for the 2nd and 3rd Rounds. It will be for regulations to continue, and we will immediately file a permanent packet afterward, so CDLAC is not running into the same issues.

Gayle Miller: Perfect.

Gustavo Velasquez asked for clarification: The packet will be submitted to OAL not until May?

Executive Director Nancee Robles indicated: There are 3 things going on: 1) there needs to be a small change in an emergency packet so that we will be allowed to allocate in the 1st Round under the old regulations. That will be in an emergency packet presented in the Jan 19th meeting. 2) Right after that, we will file a permanent packet with OAL which will roll in about 6 emergency packets already in existence so that we can operate under the old regulations. 3) The new regulation packet that will be brought to the Committee for the 2nd and 3rd Rounds, and to continue, will be somewhere around May. It will be an emergency packet, so if we can get it here in May, it will be in effect within 30 days.

Gayle Miller stated that the explanation was very helpful and thanked Ms. Robles.

Ms. Miller addressed Treasurer Ma: A letter was submitted that covers the majority of what was considered technical changes. Madam Treasurer may determine whether or not each of those are to be individually examined. The most substantive ones can also be pointed out. It is, however, on the website. It includes pool recommendations, does 3 things that works through the data of how the tie breaker works pursuant to the data used at HCD. It also covers outstanding regulations that did not have the opportunity to be discussed which may be technical in nature, including having the homeless set-aside be 49% rather than 100% to make it more flexible. Each of them can be discussed or perhaps having a staff discussion. What is the right process in the interest of time? There are 10 changes total and some point

category suggestions. Most are simply streamlining and ensuring consistencies, not all policy changes. What will Madam Treasurer's process be?

Treasurer Ma: With this being in discussion often, there should be no surprises here. Members of the public may certainly weigh in on the ideas. The pools being the most controversial is where our time and energy will be going most to. If the Committee members or members of the public would like to make a comment on any of those 10 points, they are welcomed to.

Executive Director Nancee Robles: In addition to commentary on the 10 points, we want to also afford the public an opportunity to weigh in when the regulations were filed with the Office of Administration Law. Legally there is a 5-day comment period, and we are going to open that up to a 30-day period. There is also going to be a workshop.

While this is in the works, no date has been set yet as no timing or calendar for meetings in 2022 has not been nailed down or approved. We look forward to these items being fully ready to present and approved at the January 19 meeting. From there, it will be clearer as to when this 30-day commentary can take place as well as the workshops.

Anthony Sertich suggested going through the basic changes that both administrations would like to recommend before inputting and then adding in public commentary to help streamline.

Treasurer Ma suggested for Mr. Sertich to start off the Committee.

Anthony Sertich made four points:

1. Remove the leverage point category because of redundancy now that there is encouragement to incentivize leverage in the tie breaker.
2. Codifying the allocation process to decrease discussions of how awarding state credits is going to work. Along those lines, if a bond does not receive state tax credits, they should not be awarded or be deemed feasible which would help the award process. With the Build Back Better bill unlikely to pass, rephrase wording from 55% to 110%, 120% of minimum bonds required to receive the full tax credit allocation, just so should there be a pass later in the 2022 year, there is room in staying ahead of the game. The recommendation would be to rephrase at 120% from 55-60% given some of the concerns that were brought up.
3. Changing the skipping rule for allocating bonds as that is creating structural issues with the allocation process causing projects to fall out. This is in line with the administrations' recommendation, which is to redefine preservation projects and taking out the piece that allows Section 8 projects that do not have CDLAC/CTCAC to regulate regulatory agreements on them to receive qualified preservation. Those projects can always go market themselves, but the tenants themselves, if they should go market, do receive vouchers which protects them while the project can go market. Those kinds of projects are not projects that are sustaining in the preservation cycle. This relates to Item number 5 from the definition of the preservation that should be removed.

4. The definition that needs to be worked on is the community revitalization areas. We need to get that right because this is getting layering into the scoring now.

Treasurer Ma welcomed Gayle Miller in adding any comments from Anthony Sertich's points.

Gayle Miller stated disagreements on the following points from Anthony Sertich:

Point 1, Leverage agreement, though still incentivizing a low amount.

Point 2, codifying allocation process—specifically, increasing bond amount. Given how scarce they are, a Federal trigger would be acceptable. Instead of increasing the bond amount in preparation, the regulation could instead be written, “If there is a federal law that changes the requirements that there would be no issue complying with that.” That would be a better way of accounting for the chances of a federal change.

Ms. Miller provided no comments on the skipping rule because there were some clarification she still needed on it.

Ms. Miller stated agreements on the following points from Anthony Sertich:

Point 3, specifically, the preservation redefinition.

Point 4, work on community revitalization definition.

From the Governor's Office:

- 50% cap for Affirmatively Furthering Fair Housing (AFFH)
- A proposal has been put out there in the way the pools are constructed and addresses how the tie breaker should work.
- When feasible under IRS regulations, for the unused funds, if money is left over from carryforward that isn't going back to the issuer, then it goes to ELI/VLI
- Eliminating the sunset date for a set-aside.
- Homeless prioritization to decrease to 49%.
- Broadening definition of homelessness.
- Preservation rehab.
- Supplemental bond request.
- As for point changes, need to be refined and consistent with definitions that are the same across programs.
- AFFH point specific information

A brief discussion of the “skipping rule” and what it is took place.

Treasurer Ma explained the skipping rule: When not enough capacity, applications are skipped to the next one instead of going back to the higher score and saying, “would you like to

amend/take less?" When bonds come back, the applicants that were skipped want to be back on the list again because they've been skipped.

Anthony Sertich clarified his previous recommendation: Recommendation to rephrase at 120% is not set, but rather even rephrased to 5% more would be fine. The important thing is to address it before some bill is implemented in the spring that can change that rule.

There was general understanding amongst the Committee members that disagreement was between the leverage point category as well as the skipping rule. A general consensus passed through the Committee to address the issues during this current meeting. Treasurer Ma began the discussion with addressing removing the leverage point categories and if any Committee member would want to remove or keep it.

No comments were waiting on the phone.

Caleb Roope raised his hand. Treasurer Ma acknowledged Mr. Roope.

Caleb Roope of the Pacific Company acknowledged: There are many reasons to remove as well as keep it as previously discussed in past meetings. He instead recognized "recycled bonds" staying in the definition, as it carries importance in the system. In the scenario that the leverage point category is accepted to stay, the program can be as effective as New York is and thus keeping recycled bonds in the definition has been an elegant way of incentivizing recycled bonds through the leverage point category.

Additionally, the Committee touched upon future regulations and concurrent fix changes and that it would be good for staff to be able to isolate the immediate ones that are going to go into the emergency packet that Executive Director Nancee and the team are working on. For example, an immediate one: changing the 49% homeless, the skipping rule, not getting a state credits rule. Isolating them into a tight bucket for them to work on first. The bigger things, such as the new tie-breaker could be worked on in the future.

Gayle Miller raised her hand and Treasurer Ma acknowledged Ms. Miller.

Gayle Miller responded to Mr. Roope's latter point: It will be important to delegate all the points to the staff and working groups given each are technical. Staff can then work on it to create a comprehensive packet for public comment by January 19th to reduce repeatedly changing things.

Treasurer Ma recognized Ms. Miller's point.

Executive Director Nancee Robles stated: It would be impossible for CDLAC to produce a comprehensive packet and have it ready to go by January 19 as they are still working on the old one. The old packets must be completed and placed into a permanent rulemaking process. CDLAC staff are still reviewing applications for the waitlist. A lot of work still needs to be done by the end of 2021 with limited staff and time. The plan was that everything would be put in the packet going forward and have the workshops and 30-day public commentary so

that everyone has the opportunity to discuss before it is presented to the Committee. The small change to be made for the January 19th meeting is a change that allows CDLAC to run the first round of allocation within the old regulations because, as of now, the regulations says that before any allocation that is presented in 2022, CDLAC is to correct the tie breaker. CDLAC is not prepared to bring to the Committee a comprehensive packet as there are too many moving parts and components to changing these regulations to do that.

Ms. Miller apologized and corrected herself to say, “*When*” CDLAC and staff are ready for that phase.

Treasurer Ma summed up the conversation: The Committee will delegate to CDLAC staff, working group, HCD, and any interested in working on this, to work on all of the issues (codifying a process, skipping rule, redefining preservation, redefining community revitalization areas, eliminating the sunset) that were brought up. However, a decision vote needs to be made and on the leverage point categories.

Treasurer Ma acknowledged William Leech.

William Leech of Kingdom Development expressed the following: Thanks to making the meeting available on Zoom again. On the leveraging point categories, he strongly supports removing the category as it is unfortunately conscripted and forces developers down a certain path rather than being flexible for many different ways to finance a transaction. Often, when developers get local agencies involved as a mandatory component to get scoring, it adds costs. The way the 50% works, it does the opposite of leverage the bond. Many good reasons are involved in this scoring category: it gets the local agencies involved in writing down the regulations, giving those regulations a deeper targeted level. Where local agencies’ involvements are concerned, the tie breaker will help with that. For new people trying to get into the industry, the leverage point category will be a barrier to entry. Perhaps new developers may not have the local component, but perhaps they are able to put together a good financing packet that can get it done without the local component. For that reason, he is in strong support of removing the leverage point category not because it is a bad category but because it is already built into the new tie breaker and will be very helpful for emerging developers, flexibility, and existing developers to propose to propose the absolute best projects to the Committee in the future.

Treasurer Ma thanked Mr. Leech and acknowledged Melissa Fox.

Melissa Fox thanked Treasurer Ma and CDLAC staff for their work and addressed: Her concerns are for the rural and inland areas, specifically scoring and tie breaker which favor the metro regions and denser areas. The climate goals as well are also constructed in a way that favor the metro areas, especially in the area of amenities. There has been move towards the imperial empire and inland because of the cost of housing. In the ability now to appear and work on Zoom, as the focus to meet climate goals and encourage people not to use transit and work from home instead using high speed internet, these should be things that the Committee should consider to help balance transit. With regards to the rural transit, commentary will be addressed at Item number 5.

Melissa Fox closed and Treasurer Ma thanked her. No other members of the public were waiting to comment on the phone line or in the room.

Andre Perry raised his hand. Treasurer Ma acknowledged Mr. Perry.

Mr. Perry circled back on Mr. Sertich's point on regulation 5233: He is in full support in respect to reconsideration of raising that 55% cap to something closer to 60% for the reason being that as an issuer on behalf of the City of Los Angeles and seeing deals coming through City of Los Angeles' pipeline with projects submitted at the 55% maximum provided under that regulation caused from increased cost. At the time of receiving the award and getting to closing, projects are needing that additional 1 or 2 percentage point in order to keep their 4% tax credit. From a staffing stand point, for issuers like City of Los Angeles, and perhaps CDLAC as well, it would be easier to go back to the 2020 rule which was allowing the cap to go back to 60% so that deals don't have to be underwritten again and reevaluated. When thinking about the regional set asides available to the City of Los Angeles, many of the deals asking for supplemental bonds are asking for very minimal in order to keep meeting their 50% test. The City of Los Angeles are seeing deals asking between \$3 million to \$5 million on average. The issue stems from the amount of time that it takes to get all the things ready for staff at the state and issuer level. The issue can be avoided if the cap is raised.

Treasurer Ma thanked Mr. Perry and acknowledged Alice Talcott.

Ms. Talcott shared: On the process, one thing to consider in the discussion with the state credits issue is when CTCAC is going to have to decide to get allocated between the three rounds. She advocates that they get divided equally between the three rounds in consideration of projects coming in the later rounds where allocation is then very few, especially with the new regulations being applied in the 2nd and 3rd rounds. In order to do that, the Committee will need to address in the CDLAC regulations how the skipping rule would work for state credits in the first rounds should the Committee agree to divide allocation equally between the three rounds. Because there will be a small change being made in the January meeting, a possibility could be to make that change in January which will enable the Committee to fix that in the 1st round as well.

Treasurer Ma thanked Ms. Talcott. No other comments remained.

Treasurer Ma extended the invitation for the Committee to make a motion.

Gayle Miller made a comment: It would be best to keep it and prevent losing the emphasis it brings to leverage.

Anthony Sertich made a motion: Remove the leverage point category.

There was no second to the motion.

Anthony Sertich followed up: On the note of seconding Ms. Miller's idea of giving staff the availability to work with the ideas and discussions the Committee has had and develop some regulations around them, the one big thing that may be missing, as the Committee is thinking about the coming year, is to engage the environmental side and sustainability side so that scoring is calibrated correctly. Because the administration has the expertise there, it would be good for them to really leverage it next year so build the scoring out to best leverage those sides.

Treasurer Ma made a comment: Not just the staff but the working group as well.

Anthony Sertich wanted to focus on the following: When it comes to adding back some parts of the program back, it will be important to distinguish between the incentives and the requirements because they are two different things. Focusing on making incentives is the point of the tie breaker because it gives us the ability to incentivize rather than requiring, if done properly.

Gayle Miller addressed Treasurer Ma: Does the Committee want to make a motion in the case there is a Federal trigger?

Treasurer Ma: It would be best to allocated it to staff.

Nancee Robles: And ride it out.

There was no motion on this action item.

5. Discussion of Distribution of 2022 Allocation

Executive Director Nancee Robles opened: The discussion to prepare Staff to make a recommendation to the January 19th meeting. To date, the Committee does not have the factor to calculate the IRS's state's debt ceiling, so the Committee will be discussing all of the preparation in general dollar amounts and percentages of the overall amount. Each Committee member has submitted its recommendations. A brief summary for the Minutes and the record will be given:

The Administration proposed \$600 million to the exempt facility pool, and the remaining to be split 60/40 between the set-asides and the regions with no changes to the categories with slight adjustments to the percentages of the set aside pools. It also proposes to return percentages of geographic regions to previous forms prior to the last changes. If the Executive Director is not interpreting those correct, please let her know.

The Controller's Office proposed all allocation be 100% QRRP—75% of which is new construction and no allocation for the mixed income pool. It is also proposed the homeless and ELI/VLI award be awarded first and count against the geographic pools. It addition, it is suggestion the new construction geographic pools be realigned and combine the city of Los

Angeles and the balance of Los Angeles into one pool and create percentages based on fair market rent (FMR) X population.

The Treasurer's Office proposed \$600 million to the exempt facility pool, and the remaining to be split 60/40 between the set-asides and the regions with no changes to the categories and no adjustments to the percentages of the set aside pools. It also proposes to change the percentages of the geographic regions to original form prior to the last change.

Requests were submitted from CalVET to allocate \$100 million to create revenue in its veteran housing programs and a request was submitted from CalHFA for \$200 million in the mixed income pool [this was later corrected to be a \$600 million request].

A comparison document was also prepared for the public to follow along. That is on the CDLAC website under Meetings & Agendas, Dec 22nd Meeting, which also includes all other documents and presentations presented on that day.

Treasurer Ma then praised Executive Director Nancee Robles and her team for a great job in preparing the documents. She asked for the members to have it reviewed to make sure that those proposals were what was intended by the three offices and they will begin there.

Tiena Johnson Hall had her hand raised and Treasurer Ma acknowledged her.

Tiena Johnson Hall thanked Treasurer Ma and proceeded to clarify: the \$200 million that Ms. Robles mentioned was for tax credits and the actual ask around the Mixed Income Program (MIP) pool that was submitted in writing was for a little over \$600 million.

Treasurer Ma acknowledged this and turned to the room for raised hands. She acknowledged Mike Walsh.

Mike Walsh of Riverside County Housing Authority began by expressing appreciation to staff for the very clear spreadsheet and followed up with: His primary concern is proportionality in terms of allocation since the state receives allocation based on population. In terms of geographic regions, it is not how it is distributed. More specifically, for one of the set asides—the rural piece—other state programs allocate substantially higher programs towards the rural set aside. This is critical for both CDLAC/CTCAC because rural areas are competing against high cost regions creating a disadvantage. If they are unsuccessful in the rural piece, they will not fall back into their geographic region, essentially receiving just one bite at the apple. Many of the projects are dependent on many of the HCDs and state resources that are allocated 10% or 20% of their set aside towards other allocations, rural projects. Those projects do not have the ability to move forward. The longer they wait, the more disadvantages because of the higher costs.

Treasurer Ma thanked Mike Walsh and acknowledged Mitch Slagerman.

Anthony Sertich asked to speak: Some of the numbers on the spreadsheet appeared to have been moved from the summary sheet from the original send. Looking at it, from the Controller's

Office's proposal, 5% the BIPOC pool, 5% to Rural, 14% to Preservation and 1% Other Rehabilitation. The order was off, though the numbers are correct.

Treasurer Ma asked for the numbers to be repeated for the right pools, and then acknowledged Mr. Slagerman.

Mike Slagerman of Palms Community, an affordable developer, thanked the Committee for the opportunity to speak: Piggybacking on what Mr. Walsh spoke of previously, allocation should be made on the basis of region because it is the most equitable, mimicking the federal practice. It is also very straightforward and easy to understand. Together with Mr. Walsh, the request would be to have the Committee reconsider the allocation on a per capita basis. In relation to the set aside such as the ELI/VLI, goals could be made within the actual regions, setting some percentages based on that and making all bond allocation go per capita per region.

Treasurer Ma thanked Mr. Slagerman and acknowledged Susan Jordan.

Susan Jordan: In today's meeting, the Committee will certainly discuss the allocation pools and the Housing programs versus exempt facilities. There seems to be some confusion from the last meeting on whether or not Brookfield and Poseidon have an application for \$1.1 billion in private activity bond. The answer to that would be, "They have an approved initial resolution that was issued by CPCFA in December 2019 that notification to the public in advanced. This resolution is valid until December 2022." The reason the public is so concerned is because this is how they financed the vast majority of their Carlsbad desalination plants. The ramifications of that decision were unknown then but are known now. Back in January 2021, the opposition to Poseidon's \$1.1 billion application was first opposed. In response, Poseidon themselves indicated they would not be coming through that allocation until early mid-2022, which is what the Committee is currently discussing at today's meeting. Within the last several weeks, Poseidon's lead for the project has twice made it clear in the Press that it believes it is eligible and entitled to seek this funding. Their statements are available and can be shared with staff. If anyone is to blame for leading the public for believing that this potential application for \$1.1 billion in private activity bonds is alive and kicking, it would be the company itself which is why the public feels it necessary to continue to express its strong and united opposition to any allocation, whatsoever, to a project that works in climate change, pollutes the marine environment, while privatizing water and raising rates, all to enrich a \$650 billion global corporation who can certainly afford to finance the construction of this facility without public handout. Until this application is withdrawn, denied, or expired, the public will continue to urge the Committee to direct the vast majority, if not all, of the federal allocation to affordable housing projects and to only approve exempt facilities that meet the most stringent environmental standards, given that the issuer that is issuing here is titled the California Pollution Control Financing Authority (CPCFA).

Ms. Jordan closed by thanking the Committee and staff again and especially for providing the Zoom link as it makes a huge difference for the ability of the public to interact with the Committee and its staff.

Treasurer Ma thanked Ms. Jordan and acknowledged the next speaker.

Theresa Gunn of CalVET thanked the Committee for the opportunity to speak: She is here to advocate that a portion of the allocation be made to CalVET for the homeownership program. In 1970, the legislature authorized and setup CalVET to do revenue bonds that was before the feds took over the allocation process. When it took over, it had the states take care of those apportionments. It still put CalVET in, in requesting funds from CDLAC to be able to allocate these. The program is here to help veterans ineligible for the qualified Veteran Mortgage Bonds which are the state general obligation bonds. Since 1970, at least 18 times, the legislature has reaffirmed the CalVET Homeloan Program, serving veterans and helping them get into housing. CalVET would use these funds and allocations for low-income veterans. Without it, these veterans would remain in affordable housing instead of becoming homeowners.

Treasurer Ma thanked Ms. Gunn.

Executive Director Nancee Robles explain the screen being shared on the Zoom video: the spreadsheet has been corrected to reflect the corrections made to it earlier by Mr. Sertich.

Treasurer Ma thanked Ms. Robles and acknowledged the next speaker.

Melissa Fox from Coachella Valley: She expressed her surprise to see the 1% allocation come out of the Controller's Office. Very good to hear, at least in the rural area. Based on what Mr. Walsh pointed out and from other speakers, the money received was based on population. Since the trend has been that the population is moving away from metro areas to marginally more affordable areas, allocation should reflect this move because it also reflects the need. She expressed appreciation that the Controller's Office is not recommending 1% but is indeed recommending 5% though that is nowhere near enough. Looking at the percentages in the other materials, looking at \$300 million being approved as opposed to \$2.7 billion in the Bay Area. It does not reflect population and needs assistance to make this a more equitable process and distribution of funds, and in particular, tagged to population numbers.

Previously, she spoke on a different item on the ability to telecommute and how that is likely to be the environment as opposed to taking transit and commuting. Consideration of the climate goals is going to be very important. It will have to allow for amenities or high-speed internet and infrastructure. The hope is that the Committee will look at population numbers and decide how best to allocate resources to help the most people.

Treasurer Ma thanked Ms. Fox and acknowledged the next speaker.

Olivia addressed the Committee and expressed her concern: On the \$1.1 billion application, where is the approved resolution? Since Poseidon did not come before CDLAC in 2021 for approval, they appear to feel as if they have time, privilege, and favoritism of Governor Newsom. 2022 is right around the corner, so the question to pose is: "Why can't we declare collectively to support statewide solution for permanent affordable housing for the zero-

income, the very low income, the low income, moderate income people, retirees, veterans, single parents, grandparents with custody of their grandchildren, and the newly widowed partners because of COVID and/or the economic suffering of the pandemic and the climate crisis, fires and floods? Why can't we?" The answer is simple: because the Governor does not want to. This is why nice things cannot be had and nice things to have in 2022 are: clean air, clean water to drink, affordable permanent housing for relatives. Meanwhile, Wall St. praised Poseidon for using public money for private profit. The hope and goal are to create a healthy community for all in 2022, not profiting comforts for a select few corporations. The public has the people and community power as Californians to keep one another healthy.

Olivia urged the Committee to rise to the occasion of the day to be better and thanked them again for their time as well as the Zoom medium to interact with Committee and staff.

Treasurer Ma thanked Olivia and acknowledged the next speaker.

Emily Ware asked: Has there been any proposals to align the geographic regions to the HCD opportunity area map? It might solve some of the question of having a separate rural set aside. It would also treat Solano, Sonoma, Marin, and Napa County as a part of the Bay Area region which seems to be a little more similar what the threshold basis limit regions looks like, the HCD opportunity look like, the CDLAC/CTCAC geographical apportionments look like?

Treasurer Ma acknowledged the question and indicated that the Committee will come back to it.

Treasurer Ma thanked Emily and acknowledged the next speaker.

Cherene Sandidge made three comments: 1) Acknowledgement in the 5% BIPOC pool and will be using that most efficiently. There will be no support for splitting up the pie of geographical apportionment or levies to other areas. As long as it stays as it was, moving forward will be fine. 2) Concern about how to make senior projects competitive with no federal and state coming in. 3) Is there a difference between ELI and homeless? Homeless should be able to apply in the exempt pool because of all the services and facilities needed to be built to support a transient population. A discussion should be had on how to move not just from homeless but from seniors to new homeless who are also your ELI/VLI who cannot afford to live in California. 30% AMI in the Bay Area is \$26,000—that is not a living wage to pay rent. How does one stop this kind of train from moving? Last thing to mention: highly in support of moving the ELI/VLI deduction out of geographical but it does not make sense. It does not make sense here: Not only does ELI/VLI have its own set aside, it will go against its own geographical proportion. For example, if a project is coming in for ELI/VLI, will money first be taken out of the set aside or the geographical apportionment? This is specific to the Bay Area but it appears to make sense. Some explanation would be appreciated.

Treasurer Ma thanked Cherene and acknowledged the next speaker.

Alejandro: A resident of Orange County and recent graduate of UC Santa Barbara, representing the youth and those entering the workforce.

A brief note prior to making his point, Alejandro asked if the meeting on Zoom could extend its capacity to include more than 100 people on video just to ensure no one is dropped to participate and miss an opportunity to actively engage with the Committee.

He requested the Committee to allocate 95% towards affordable housing given the current housing crisis. He also requested especially not to give the \$1.1 billion towards Poseidon who is seeking private profit at the expense of Orange County residents.

In a personal testimony, he expressed the difficulties of thinking about purchasing a home, especially with rising rent and with having shared costs with roommates. He projected there may be no future for him to retire and own a home. Orange County's housing market has doubled since 2012 and the county will still require blue collared workers. People are living together and cramming themselves in living spaces as evidenced by the street parking. Moving out of the state or elsewhere cheaper is not necessarily an option but rather a privilege because of the cost and networks of support that live in certain locations, such as Spanish speaking communities for primarily Spanish speaking residents. California should not just hold an aging population or people living on the streets. The current reality holds, for example, a houseless lady with a 7 month old baby whom he met. Given the present reality of homelessness, the current generation appears to be worse off than their parents. Tuition, cost of living, getting a home—all really high in costs and currently looks impossible for the youth and those entering the workforce. For that reason, \$1.1 billion should not go to Poseidon, whose facility will not help the environment as a corporation, but rather towards the housing crisis addressing the concerns as noted in his testimony.

Treasurer Ma thanked Alejandro and acknowledged the next speaker.

George Corser: A resident of San Diego County. He recently just learned about the Poseidon situation and wanted to share some information on impacts that Poseidon has had in San Diego because he has been directly affected by it. His impression of CDLAC was that it primarily exists to support affordable housing, not a polluting plant that Poseidon has proven to be.

The Poseidon plant is a big factor increasing the price of water in San Diego. In San Diego, price of water is among the highest in the nation now because of the County Water Authority subsidizing this plant. Currently Poseidon charges the county and residents and ratepayers \$2800 for an acre foot while the metropolitan water district, who supplies Poseidon, charges \$1,309—a difference of \$1500 that residents are paying in a premium to Poseidon.

Besides being able to subsidize a polluting plant but also inject tremendous amounts of brine right back into the ocean, there is a reliability situation. Just this past year, the plant was shut down due to a red tide and could not operate for two weeks. As climate changes starts to increase, the question posed is: “what can the people look at to rely on with Poseidon?” Other reliability issues include their inability to prevent failures and shutdowns. Between 2018 and 2019, Poseidon was short 5000 acre feet of production that was promised to residents.

It is also a huge energy consumer, taking 5000 kilowatts for an acre foot of water from Poseidon. It has had to curtail water protection to prevent rolling blackouts and returning 8 megawatts back to the grid because of the shutdown.

Overall, this is the wrong place, certainly for California because in San Diego, the plant has proven to be a disaster for San Diego.

He implored the Committee to not allow the project to move forward and concluded by thanking the Committee.

Treasurer Ma thanked Mr. Corser and addressed public commentary on Poseidon by encouraging members of the public to go to CPCFA first to track where that project is and when it will be discussed there at that meeting. Treasurer Ma expressed focus should be specifically on the allocation and not on the company in particular.

Treasurer Ma acknowledged William L. Martin.

William L. Martin stated his comment was on the Poseidon project and will attend a future meeting as directed by Treasurer Ma and thanked Treasurer Ma.

Treasurer Ma thanked Mr. Martin and acknowledged the next speaker.

Greg Gossard of Hampstead Companies: As an affordable housing developer company in San Diego, their project fits well into the allocation topic to discuss. Their project Hayden Parkway Apartments was one of the projects that staff provided final recommendation to for bonds and state credits then lost in allocation of state credits in the shuffling that occurred in the Committee meeting. He wanted to express his frustration that they had spent a good amount of effort, funds, and political capital to position their project to succeed in the box that is presentative within the regulations and stated objectives. It is located in a high opportunity area, receiving a perfect 120 score, competitive tiebreaker—about \$142,000 per unit. The project asked for state credits, minimizing the ask amount to about 50% from the max to make it more competitive.

What led to the loss of receiving state credits allocation was the return of bonds and the approved Mercy appeal which put more bond cap into the ELI/VLI pool instead of spreading it all across the targeted allocation pools including geographic. Effectively, it turned the box upside down on scoring and tie breaker. The projects that were then awarded had doubled the tie breaker. Those projects did were not in high opportunity areas, as cost or resource efficient. The box they were working within with their project was understood to be the most cost efficient in creating the most homes built for people across California. With that, ELI/VLI taking the preference may not be as cost or resource efficient as seen in the last meeting. A project like the one they brought in to be funded did not get funded, making it a classic example of one of many projects that may not because of the preference. Essentially, outcomes that are wanted are not really happening as they are pictured to become.

Treasurer Ma thanked Mr. Gossard and acknowledged the next speaker.

Paul Beesemyer of California Housing Partnership wanted to weigh in on the following: First, he approves of the Treasurer's proposal for the 2022 allocation system. He thinks the partnership's position thinks it is very important to maintain the ELI/VLI in homelessness set aside. Treasurer's proposal does that. Secondly, perhaps more importantly, the Treasurer's proposal appears to be supported by data analysis that HCD did which is in BCSH's secretary letter. In addition to the Treasurer's proposal, the California Housing Partnership also strongly support the Controller's proposal to dedicate all 2022 bond allocation to QRRP that is to housing developments.

Treasurer Ma thanked Mr. Beesemyer and acknowledged the next speaker.

Andrea Leon-Grossman of Azul: Special thanks to State Controller Betty Yee, who made efforts to hear from communities. Specifically, Emily Burgos, who helped Azul access CDLAC meetings. Accessibility is key and making meetings, notes, minutes, recordings available helps tremendously. Access should also be made in Spanish.

As previously expressed in testimonies made back in November 17th and December 8th, CDLAC has a moral obligation to allocate as least 95% of its funds to affordable housing, given the current housing crisis. Upper profit Canadian national [indiscernible]... is attempting to take a 4th of CDLAC's funds by taking California's public funds and privatizing California's vulnerable resources—its own water. Brookfield asset management wants over a billion dollars in taxes and bonds so that they could make higher margins selling California water to Californians. Waiting for CPCFA to allocate the money and then fighting Poseidon is not something our communities can afford to do. CDLAC needs to make it clear that Poseidon will not qualify for bonds intended for affordable housing. Doing so will cost Californians nearly \$2 billion in affordable housing money. California would lose by giving this money to a for profit corporation when factoring in all that could go into affordable housing instead. The question, then, stands before the Committee as a moral one: will CDLAC prioritize vulnerable Californians or a Canadian corporation privatizing Californian's waters?

Another critical question is about transparency and process. Reports from CDLAC and elsewhere have pointed out to emergent major surplus for request for funding. Possibly to the tune of 3x or more than CDLAC has to allocate. How will CDLAC make those decisions in a moral or more transparent way? The clear answer is the scoring system open to public comment and review. This is somewhat taking into account the climate, energy, and environmental justice effects of any projects. Requesting CDLAC funds as well as obligations to award disadvantaged communities and other equitable factors like how many low income and vulnerable Californians will a project benefit directly. Please make public any scoring system currently in discussion or in development or used at CDLAC and include communities in the process in creating such a system going forward.

Brookfield's proposed Poseidon Desalination Plant in Huntington Beach will likely fail to meet any standard within such a scoring system because Poseidon needs to close a project at high risk due to climate change, shut down if another oil spill happens near its intake, run off of fossil fuel for energy polluting and poisoning communities with every drop of water it

creates, dropping 15 million toxic concentrated brine and chemicals back into the ocean every day for half a century creating ecological death zones.

Most importantly it will hurt environmental justice communities like those that Azul represents. Studies have proven time and time again [indiscernible] will bear the brunt of more industrial pollution. The increased cost to rate payers, the environment, and the people of California are far too high to choose Brookfield's Poseidon project. Any suggestion that the desperate need for affordable housing during this severe housing crisis should have equal priority for CDLAC to afford for-profit effort to privatize water is simply wrong. Remember the United Nations deemed desalination maladaptation due to the toxicity, energy load, and general inefficiency of the process.

The people of California are depending on the Committee to make the right decision. More affordable housing is needed, not sacrifice zones. Choose California please, instead of—

Treasurer Ma spoke again on going to the CPCFA meeting as the discussion should be focused on allocation and not the Poseidon project. To reiterate, while public commentary is open with no time limit as well as deeply appreciated and welcomed, there are many processes for the public to still weigh in on. This is an allocation discussion item for public comment.

Treasurer Ma thanked Ms. Leon-Grossman and others who have provided commentary on the Poseidon project but directed commentators to again go to CPCFA's meetings because the discussion for this item today must focus on allocation.

Treasurer Ma acknowledged the next speaker.

Mike Miller of BOLD Communities wanted to provide commentary on: The BIPOC pool and the regulations. In a letter that was recently submitted in writing, as an emerging BIPOC, there are two challenges that have been especially evident in the past year and they are in trying to do a LIHTC experiment, specifically, having experience and a lack of a balance sheet.

The Committee got it right in that these two points are what needs to be addressed for BIPOC. Firstly, lowering the barrier to entry on the experience front. However, as it is written, very few emerging BIPOC have been in GP in a LIHTC development that has received a CMO, thus making that experience less for the emerging BIPOC such as whether it is Zero or having demonstrated some technical competence. Simply put, re-evaluate lowering that barrier on the experience front.

The lack of the balance sheet. With the increased fee, it should be pushed even higher because as much as an emerging BIPOC like himself would prefer to do a project on his own, it will not be feasible. Lack of a balance sheet makes it tough when dealing with vendors and LIHTC equity investors. Partners then need to be requested to work with and increasing fees incentivizes them into more partnership and not cannibalize the amount that is taken from the BIPOC. Additionally, it needs to be clarified for in the regulations that there is a path for emerging BIPOCS to partner with BIPOCS that have max experience points and still be

eligible for that higher fee and being able to access the BIPOC pool. This ensures all benefits go to BIPOCs and especially emerging BIPOCS.

Lastly, a pathway for BIPOCS to partnership with non BIPOCS should be created, and this would ensure not cannibalizing the BIPOC pool by, again, increasing the fee to have sharing of risks, and also to competitiveness.

With sensitivity to staffs' workloads, the quicker these ideas could be seen, the sooner the public could weigh in and add to what the Committee decides.

Treasurer Ma thanked Mr. Miller and asked him to put his suggestions into writing to staff and the Committee. She also stated that Mr. Miller's comment will be moved to the prior item since it did not cover the allocation but rather the regulation.

Treasurer Ma acknowledged the next speaker.

Cherene Sandidge comment follows: Point 1, the State of California should be smiling for the young people who want to be part of the housing development industry. Point 2, this question was asked at the last call since it was not communicated clearly as to whether or not for the third project has been approved. Has that list been approved?

Treasurer Ma indicated for Executive Director Nancee Robles to answer.

Executive Director Nancee Robles greeted Cherene and answered: There is a list, however there are still 8 projects on the waiting list whose applications are still being reviewed. It is not finalized at this point.

Ms. Sandidge followed up: Is there an expected date on when people can count on saying those projects have received an allocation?

Executive Director Nancee Robles answered: It will definitely be by the end of the year.

Ms. Sandidge nodded and thanked Ms. Robles.

Treasurer Ma reiterated on this point: Projects are still being reviewed by Staff and staff needs time to go through them.

Treasurer Ma asked if there are any other comments.

William Leach with Kingdom Development expressed: Support for the Controller's proposal to have the allocation towards the homeless and the ELI projects to come from the regional allocation. There will be a lot of uncertainties with the new regulations and while they are sincerely appreciated, uncertainties remain. By making regional allocation larger and having the homeless and ELI/VLI goals and those awards come from the region's total. It will give regions a lot more stability in the uncertainties of the new rules and still have the same

amount of homeless, same amount of ELI/VLI, and regions will feel like they got an equitable share of the resources.

Treasurer Ma thanked Mr. Leach. No other members of the public were waiting to comment on the phone line.

Treasurer Ma acknowledged Andrea Leon-Grossman and asked if she had comments on the allocation.

Andrea Leon-Grossman wanted clarification: Is this where members of the public make comment on where allocation should be made including exempt facilities?

Treasurer Ma confirmed, yes.

Andrea Leon-Grossman then stated: Please make sure that at least 95% of the money go to affordable housing and not to Poseidon.

Treasurer Ma thanked Ms. Leon-Grossman and acknowledged no other raised hands or members of the public were on the phone line.

Treasurer Ma acknowledged a raised hand in the room, Caleb Roope.

Caleb Roope of the Pacific Companies offered his support on: The proposals by the Governor's administration. In terms of allocations of set asides and geographic regions. The letter was very thoughtful, detailed and policy driven. Overall, it was a good synopsis of the things that could change, in particular, the additional funding the additional mixed income program. It was a great nod to that program and the success that it has had with the production and efficiency produced there. It was an attempt to balance and a really good try. For that, the proposal has his support in what they are proposing in their letter.

Treasurer Ma thanked Mr. Roope. Treasurer Ma acknowledged the next speaker.

Pat Sabelhaus thanked the Committee and CDLAC staff and recognized: All the hard work and drudgery it is taking to bring the discussion to a conclusion to decide what is to be done in 2022. He is mirroring Mr. Roope's comment on behalf of California Council of Affordable Housing in support of the thoughtful proposal that the Governor's Office, the Department of Finance has put forward as it recognizes a need to balance here what is trying to be done. There is a need to serve the homeless and extremely low income, however, doing so is not something that can automatically be done without having Section 8 subsidies involved in most of those projects.

From his opinion, in 30 years of working in this program, it is very difficult to simply capitalize an amount of money used as subsidies because it is not the same as having almost a guaranteed, whatever happens with inflation, the Section 8 housing, the subsidies would keep up and protect the long-term financial integrity of the project.

With regards to the final regulations, the Committee should think carefully and about what kind of financial feasibility projects have to demonstrate. They should be able to show to the Committee that these projects will be sustainable over 30 years and not simply just the 15 years that the syndicator equity investors care about because that is what they are out after that. In that scenario, projects can show a 15-year feasibility, but not so with a longer term period as it will not play out when expenses are going up 3.5 times or sometimes rent increases not even 2.5% depending on how lucky everyone will be with what happens with the economy.

Mr. Sabelhaus congratulates and thanks the Administration as well on its proposal along with the Chairperson has done here on behalf of the Treasurer's Office to maintain the efforts of CalHFA's mixed income program which creates the balance that is in discussion. It provides some assistance to all people and tenants that are in need or on the verge of being put in the homelessness category.

He thanked all for working with this and looks forward to the coming several weeks.

Treasurer Ma thanked Mr. Sabelhaus and asked if there are other members of the public waiting to comment. Seeing none, Treasurer Ma proceeded.

Treasurer Ma spoke: In appreciation of the Administration's increase in the preservation and the Rural construction and also CalHFA. She is in support of the administration's proposal. The Treasurer's Office's proposal was based on what was put up last year as a starting point, and the proposal from the Administration is sincerely appreciated with some of the categories which has been discussed.

Treasurer Ma opened up this portion of the conversation for her fellow Committee to speak.

Gayle Miller had one correction to make on the Administration's proposals: The geographic regions, as proposed from the Administration's proposal, is attempting to combine high FMR and high market rate by counties within categories. Whether the working groups put stake to this or not, what the Administration is suggestion is to decrease the number of regions so more equity could be had. So instead, with several ways to allocate, Bay Area with 22%, Coastal at 21%, Inland at 15%, LA at 33%, and northern at 9%. This would help with aligning to maps. Perhaps Mr. Roope could speak to that. Overall, however, this proposal is to have 40% of the regions to have equity-based regions so that the way the allocation flows is a more equitable distribution among counties that are competing at the same levels with those higher frames of reference. That would be the only change to that proposal, nothing above the regions but rather the way the Administration has decided to distribute among the regions.

Treasurer Ma responded with: For the Inland region, there would be no support as the Chair, because they will have a hard time with the decrease in the tie breaker to win.

Gayle Miller: That could be brought up, keeping it at 17%. Then the proposal for this would be: decrease the number of regions to have consistency with market rate. That can be discussed

on how to distribute within those regions, but it would then create a more equitable distribution of the allocation. Mr. Roope would want to report on this.

Caleb Roope of the Pacific Companies: From the working group perspective, this subject was touched upon. The working group did come to some general agreement about the need for geographic alignment if the new tiebreaker is used which it is. There is certainly dispute in the working group about which regions go where and the different reductions. While the working group cannot really speak on having studied this very carefully, the principal of better aligning the fair market rate deltas from tax credit rents is something that the working group want to go after, just for logistics and in order that staff might have direction.

These geographic percentages are in regulation now and they are different than what is on the current proposal packet page as seen before the Committee, as an example. Something to walk away from this meeting is that whatever is done to those geographic percentages, they still have the first round to deal with. There may be a need to make a change for that and that is where staff weigh in on that, in terms of that emergency packet, that temporary packet that will go forward on the 19th.

Then there is the longer term change which would be more of this realignment that is currently in discussion now (collapsing the region, deciding which regions include what). These are two different conversations with the latter conversation requiring more time with the geographic realignment.

For this conversation's purposes, it is really settling on the percentages, if there is going to be a change for those for the first round.

What will happen as a working group, and at least for CHC, is work for the alignment and see what can come out of it in terms of this issue and present those relatively soon so that staff and the Committee can have direction for what might be in terms of the regional allocation. The working group also has not had a chance to study anything the Administration might have proposed in terms of what movements they would have so if they had that, the working group would look at that and work on it.

Treasurer Ma then asked to clarify: No changes will occur in the pool allocations? That is currently going to happen when?

Caleb Roope responded for clarity: There's the pool and the set aside which are going to be decided upon for the year. When it comes to the regions, speaking to what is on the piece of paper (with the proposals), this is not what the regulations currently say. The regulations have different percentages—for example, Bay Area is 21% versus 17%. 21% for the Bay Area is what is in the regulations right now. The assumption is that this is what will be for the 1st round or for the year, really, unless the Committee want to amend them for the 2nd and 3rd rounds.

For the overhaul, geographically, the working group has some time to work on it and quickly, working with the Administration and any others.

Treasurer Ma suggested: Perhaps the Committee should have a discussion on that then. From the Treasurer's Office, the understanding was that the same rules would be kept for the 1st round since everybody has gotten to know it. Applicants have either submitted or getting ready to submit based on the current rules, therefore, no change should happen for the 1st round. The discussion then, with the changes, would be for the 2nd and 3rd rounds. It will be a lot for the staff if changes are to happen for the 1st round while they are still trying to put together all the packages. What does the Committee say?

Treasurer Ma acknowledged Anthony Sertich.

Anthony Sertich addressed and confirmed Treasurer Ma's point: That was the impression as well. Some of the issues on that were brought up that might have issues for the 1st round next year could be problematic and the Committee will have to manage that as best the Committee can. In terms of the allocations, that can be discussed further at the CTCAC meeting.

Stepping back a little, Mr. Sertich expressed appreciation for the Administration's thoughtful approach to the allocations. From a high level, allocating the \$600 million to exempt facilities is very wasteful of the state to do. The multifamily housing bonds coming with the 4% credits provide about 75% or so value to the state in terms of subsidies. With \$600 million, that would be about \$450 million in subsidies for affordable housing. Exempt facilities or other programs, on the high end, would provide about \$100 million in subsidies, so there will be \$350 million in value that would be given up by allocating that to exempt facilities and not taking advantage of that 4%. It is too large an amount for the State to say that it does not need that.

There are programs throughout the state that benefit these populations and those could be better leveraged by putting money into them and not taking federal money. It would be necessary to figure out as much of the pie as possible and then distribute how much goes into them.

When there is no demand on the multifamily side, it would make sense to spread the federal money around and use funds as the Committee sees fit, but as long as there is demand on the multifamily side as the State has been putting a lot into the multifamily housing instead of taking some of that money and putting it into some of the other programs would make more sense from the Controller's Office.

Feedback from other Committee members are welcomed.

Treasurer Ma: There is also a back log at CPCFA. These projects are oversubscribed and they go mostly to infrastructure projects such as garbage, recycling, waste water, the Governor and the Legislature have a mandate on cleaner, renewable programs and that is what exempt facilities money is going towards. Treasurer Ma supports keeping it at \$600 million and welcomes Shela Tobias-Daniel, the CPCFA Executive Director, come in to talk about some of the programs that are funded if any of the Committee or the public would like, as, for example, Mr. Sertich is not on the Committee at CPCFA's Committee.

Mr. Sertich corrected that for the State Controller's Office, Mr. Sertich does represent at CPCFA's Committee. He also expressed that he does have understanding of those programs there, such as the Sales Tax Exclusion program and that those programs are not bad, but rather, his point was that those programs could be funded in other ways subsidizing exempt facilities projects to get done and still have more money available as a State to spend on all priorities.

Treasurer Ma clarified that the Sales Tax Exclusion Program is with the California Alternative Energy and Advanced Transportation Authority (CAEATFA). Mr. Sertich quickly corrected himself on that point and apologized.

Treasurer Ma: At CAEATFA, they are oversubscribed at \$100 million, and hoping to get another \$100 million because of oversubscription.

Treasurer Ma affirmed Mr. Sertich's point and thanked him and acknowledged Ms. Johnson Hall.

Tiena Johnson Hall thanked the Treasurer and Committee and stated: This has been a great meeting so far and heard a lot about the need for balance and would agree on the need for balance. From CalHFA, she agreed strongly with the Administration's proposal. It was eloquently written, provided a great balance as reflected in HCD's analysis. CalHFA wants to thank the Treasurer for her support as well. CalHFA believes a robust MIP pool is an integral part of this balance system. Also as described in the previous meeting, CalHFA also feels it is important that the entire MIP pool be awarded in the first round. This request is made in order to advance objectives that CalHFA shares with the Administration to expedite new unit production and mitigate costs associated with delays. It would cost no impacts to other pools, given that CalHFA scales its program based on available resources.

Treasurer Ma thanked Ms. Johnson Hall.

Treasurer Ma: There does not appear to be a time urgency to make decisions for these proposals today. Working group can go back and look at the proposals and provide feedback to the Committee on it. Each Committee member can go back to their own drawing Committee to determine whether the numbers as shown on these proposals still stand as well as taking in consideration and concerns from the public. This item will be tabled for now and come back at the next meeting. Is that alright?

Executive Director Nancee Robles: That sounds great; however, the purpose of this discussion was to give staff enough insight to make a recommendation for the January 19, 2022 meeting.

Gayle Miller brought up a point to suggest: For the exempt pool if there is no demand at CPCFA, the Committee should create the approach that allows the money to go into housing versus staying entirely in the exempt pool. The Committee should explore some flexibility of the exempt pool to the extent that the \$600 million is spent, to Mr. Sertich's point and lose it for

housing. Let the Committee make sure that the Committee will have the flexibility to bring it back to affordable housing.

Treasurer Ma: At CPCFA, some changes are currently underway for next year because the scarce resources there. Additionally, CPCFA is trying to figure out what the cut-aways are for the Administration, the legislature, the State of California to be funded first. Focusing on priorities and getting those down first are some of the things that are really needing to get done.

Treasurer Ma acknowledged Anthony Sertich.

Anthony Sertich wanted to follow up on: Coming up with a methodology on the geographic apportionment. When the Controller's Office kept rolling numbers from year to year from 2008, the proposal that was put forward tried to come up with a methodology based on population and cost to come up with a geographic allocation. Assuming that the roll out of numbers is good is simply not enough. Looking at the City and County of Los Angeles, as an example, when combined, they are getting 35%. The population is about 26% and the cost is slightly above state average. For Los Angeles to get 35% is over subsidizing them at this point. So it would be necessary to come up with a methodology. It does not have to be the State Controller's methodology, for example, but a methodology should be in writing because as all members, both Committee and members of the public who are here, these numbers could be arbitrary. Being able to defend and have backing for them is important.

To the idea that cost regions as opposed to geographic regions are created, building is still happening throughout the state. When discussing affordable housing, the perspective should be from a regional standpoint and not in a cost perspective from the state outcomes that the Committee is looking for. If looking specifically to places like San Diego and the Bay Area, for example, there would be no guarantee that housing would be built across the state.

There are things that can be done to re-adjust the regions in the methodology from the Controller's Office. Those numbers were not shown in the Controller's proposal and nothing was changed too much to keep things as similar as possible. So, on the margins, that can be done.

Mr. Sertich said he would work with staff on that to help them have ideas if they are interested.

Treasurer Ma: One of the other components is the RHNA numbers, and who is or is not meeting them. If they are not meeting those numbers, is it because of cost, resources, or other community concerns or lawsuits, and this should be taken into consideration.

Anthony Sertich: Did look at the RHNA numbers and identified the problem with the RHNA number is they are on a different timing schedule so, for example, the Valley Regions were last updated in 2013-2014. They are in the process of updating, but since they are not on the same schedule, there is no way to compare them in an "apples to apples" sort of way.

Treasurer Ma: Thanked staff and the public for the lively discussion and stated they will come back at the January meeting to talk about the allocations.

6. Public Comment

Treasurer Ma: Invited general public comment regarding items that were not on the agenda.

There were no members of the public waiting to comment on the phone line or in the room.

7. Adjournment

The meeting was adjourned at 11:58am.



California Debt Limit Allocation Committee

AGENDA ITEM 3

Executive Director's Report

2021 Highlights – CTCAC and CDLAC

The **California Tax Credit Allocation Committee (CTCAC)** and the **California Debt Limit Allocation Committee (CDLAC)** administer programs that address critical needs for the state of California. **CTCAC** allocates nine percent (9%) or four percent (4%) federal tax credits to qualified new construction projects or existing properties undergoing rehabilitation. **CTCAC** also administers the **Low-Income Housing Tax Credit (LIHTC)** program in the State Treasurer's Office, which is a critical funding source for producing and preserving affordable rental housing and helping reach the Governor's goal of producing 3.5 million units in California by 2025.

Through **CTCAC**, private investors receive federal, and sometimes also state, income tax credits as an incentive to make equity investments in affordable rental housing. Since 1986, more than 500,000 affordable housing units have been supported in California thanks to LIHTC funding.

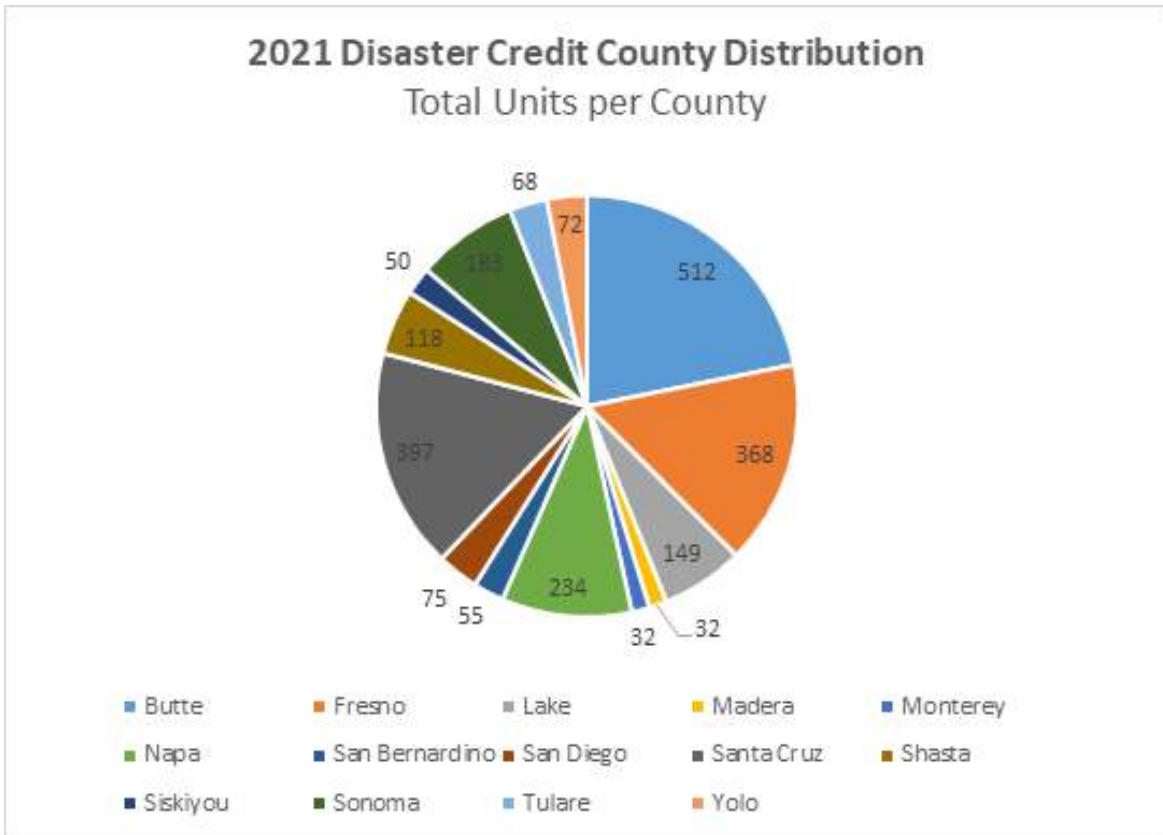
CTCAC also allocates **State Tax Credits**, working in tandem with **CDLAC**. **CDLAC** provides the private activity tax-exempt bond allocation required to access the 4% tax credits.

Both CTCAC and CDLAC are on course to greater efficiency and maximizing the number of units that can be created with the scarce resources available.

Combined, they have provided incentives that have allowed for greater production of housing units over the past several years. The number of housing units developed in 2017 was 14,091 while 22,946 were produced in 2021. The agencies funded 269 projects with bond allocation of more than \$4.3 billion, nearly \$550 million in annual federal tax credits and more than \$600 million in state tax credits.

Due to the success of the State Tax Credit allocations made in 2020 when the total allocation for State Tax Credit funding was increased from \$109 million to more than \$600 million, Governor Newsom approved another \$500 million in State Tax Credits for housing in 2021.

In recognition of the recent disasters occurring in California, the U.S. Congress passed the Consolidated Appropriations Act of 2021 (CAA) on December 21, 2020. This legislation provided CTCAC with an additional \$80.7 million in 2021 in Federal Tax Credits for its 9% program -- in addition to the \$110 million annually it already receives. The additional \$80.7 million was marked to be used in 2021-22 for projects in declared disaster areas, including 22 California counties struck by devastating wildfires in 2020. CTCAC adopted regulations on June 16, 2021, to allocate these credits, which were awarded to 39 projects producing 2,345 housing units in those counties. The CAA also established a minimum credit rate of 4% for LIHTC projects providing additional equity in financing affordable housing projects.



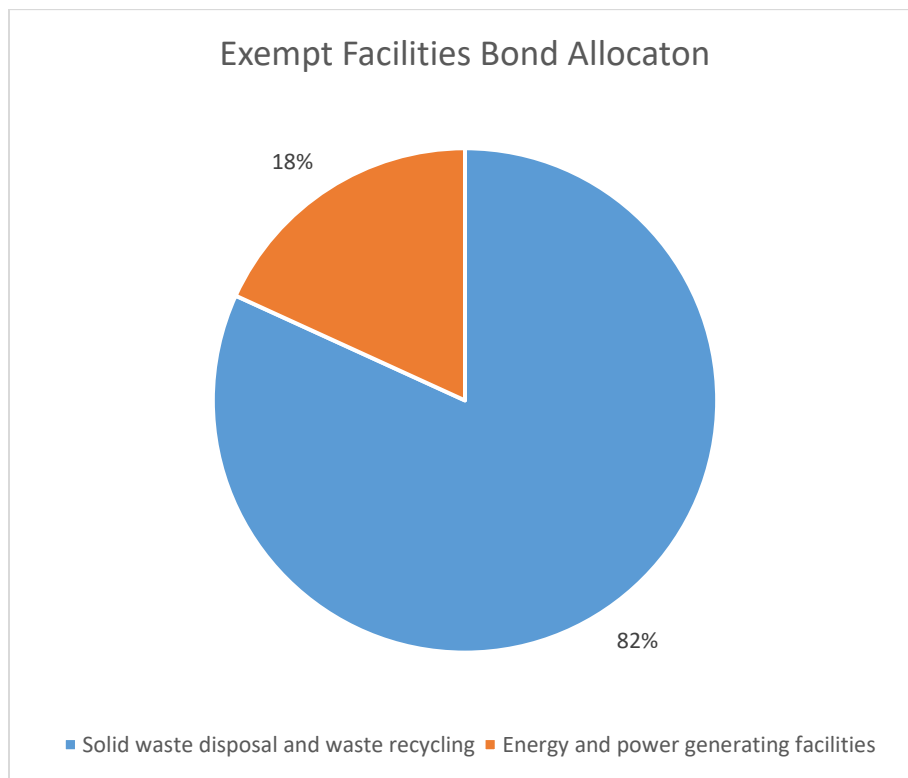
Paradise Village Before and After: Paradise Village, originally financed with CTCAC’s Low Income Housing Tax Credits in 2011, was seen here (below left) after the 2018 Camp Fire destroyed the entire property. The rebuilt property opened up to residents in the fall of 2021.



In 2021 CDLAC created the Black, Indigenous, and People of Color (BIPOC) Pool for Qualified Residential Rental Projects (QRRP). The BIPOC Pool is an allocation of the state ceiling provided for Black, Indigenous, and People of Color developers that are emerging in the industry and that do not have the minimum level of experience required

in the competitive application process. In its first year, three projects were awarded in the BIPOC Pool totaling nearly \$112 million.

The Exempt Facility Bond program at CDLAC awarded allocation to tax-exempt private activity bonds issued to finance projects identified by the IRS as an exempt facility, including but not limited to: solid waste disposal and waste recycling facilities, mass commuting facilities, high-speed rail, energy and power generating facilities, and sustainable design facilities. The public benefit of this program is loan interest rate savings that enable the project owners to charge lower customer rates, while assisting communities they serve to meet mandated requirements to protect and enhance the environment. In 2021 the Committee approved allocation to 11 projects totaling \$447,915,000. An additional \$29 million was allocated using prior year carryforward, thereby exhausting all prior year carryforward available for Exempt Facilities.



After a reprieve from the IRS in 2020 to prevent the spread of COVID-19, CTCAC recommenced compliance monitoring in 2021 on affordable housing projects which included both file and physical audits. Since October 1, 2021, CTCAC staff completed file and physical audits for 268 affordable housing projects in the CTCAC portfolio.



California Debt Limit Allocation Committee

AGENDA ITEM 4

Carryforward Update

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

January 19, 2022

CARRYFORWARD UPDATE

(Agenda Item No. 4)

ACTION: Information Item Only

BACKGROUND: Under existing law, Section 146 of the Internal Revenue Code of 1986 and accompanying regulations, a governmental issuer may carryforward unused private activity volume cap for prior years by filing a form 8328 with the I.R.S. The amount carried forward may be used for the following three years to issue private activity bonds. Pursuant to Section 146(f), the election must specify each “purpose” for which the volume cap will be used in the ensuing three years, and the dollar amount of unused cap to be allocated to each such purpose. Section 146(f)(4) states that an election, once made, is irrevocable. By law, this allocation must be “carried forward” by the issuer by its filing of IRS form 8328 on the earlier of (i) February 15 or (ii) the date of the first issuance of private activity bonds by the issuer in that calendar year.

In the 2020-108 California State Audit Report, it was recommended that CDLAC document and disclose annually in its public meetings and on its website the extent of any bonds lost, the purpose for which the bonds were allocated, and the rationale for the allocation. In addition, the passage of Assembly Bill 83 in 2020 required a report of 2020 private activity bonds awarded and carryforward statistics (among other things). CDLAC complied with the recommendations and requirements and as a result also updated its processes and regulations.

On April 28, 2021, the Committee approved to adopt Emergency Regulations §5133, consistent with the Title 26 IRS Code §146 to ensure carryforward is used whenever legally possible before current year allocation is awarded to a project. This helps protect and fully utilize our scarce resource of State Volume Cap. As a result, \$189,321,182 in prior years carryforward allocation was utilized for projects in 2021.

As of December 8, 2021, all available prior year carryforward for Qualified Residential Rental Projects (QRRP) and Exempt Facilities was assigned to specific projects. There remains \$363,765.95 of 2019 and \$541.75 of 2020 carryforward for Single Family Housing projects for CalVet. It is possible to have future 2019 and 2020 carryforward if a project was allocated 2019 or 2020 carryforward in 2021 and does not issue those bonds, or if an issuer that

was allocated 2020 bond authority received an extension to issue and subsequently does not issue bonds or issues a lesser amount than authorized.

On December 8, 2021, the Committee approved a Resolution authorizing the Interim Executive Director to distribute current year allocation remaining or reverted, on or by December 31, to be used as carryforward allocation for the following year(s), equally to the top three Issuers during previous competitive allocation years.

STAFF ACTIVITY: At the authorization of the Committee, staff continued to process applications on the waiting list using returned allocation from Issuers previously awarded that did not issue bonds within the time frame given or could not use the bond allocation due to insufficient coordinating state tax credits. The cut-off date to return allocation to be used for the waiting list was December 17, 2021, giving staff enough time to review applications for eligibility and allow applicants enough time to cure deficiencies up to December 31, 2021. As of December 17th, all eligible applicants on the waiting list were awarded until there was not enough allocation remaining to fund the next eligible project. The amount remaining was nominal. After that cutoff date, additional bond allocation was returned to CDLAC. The total remaining on December 31, 2021, was \$63,555,737.

It was determined that the top three Issuers of Qualified Private Activity Bonds in 2020 and 2021 were California Municipal Finance Authority, California Housing Finance Authority and The City of Los Angeles. On December 31, 2021, the Interim Executive Director authorized the disbursement of remaining 2021 State Ceiling Allocation in the amount of \$63,555,737 to California Municipal Finance Authority, California Housing Finance Authority and The City of Los Angeles in the amounts of \$21,185,246, \$21,185,246, and \$21,185,245 respectively, to be used as 2021 carryforward for QRRP within the next three years.

CONCLUSION: Disbursement of remaining 2021 State Ceiling Allocation in the amount of \$63,555,737 went to California Municipal Finance Authority, California Housing Finance Authority and The City of Los Angeles in the amounts of \$21,185,246, \$21,185,246, and \$21,185,245 respectively, to be used as 2021 carryforward for QRRP within the next three years.

We continue our goal to utilize California's available debt allocation in the most fiscally responsible and prudent manner possible. The efforts made in 2021 have improved the use of these scarce resources and utilized the outstanding prior year carryforward allocation. This update will be posted on the CDLAC website.



California Debt Limit Allocation Committee

AGENDA ITEM 5
Consideration of Extension Request for
Qualified Residential Rental Project
Allocated in 2021

January 5, 2022

California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814
Attn: Nancee Robles, Interim Executive Director

Re: Request for 90-Day Extension to Bond Issuance Deadline
Project Name: Crest on Imperial
CDLAC Resolution#: 21-177
CDLAC App#: 21-580

Dear Ms. Robles,

On January 5, 2022, CalHFA received a request from MirKa Investments, LLC, the Project Sponsor on the above-mentioned project, to request a 90-day extension to the current bond issuance deadline of February 7th, 2022.

As described in the attached letter from the Project Sponsor dated January 5, 2022, an extension to the current bond issuance deadline is needed in order to provide additional time for the City of San Diego to issue building permits before the construction lender (Citibank) can obtain credit approval. The City of San Diego is experiencing delays and staffing shortages due to the recent surge of COVID-19.

CalHFA formally requests a 90-day extension to the bond issuance deadline from February 7th, 2022 to May 8th, 2022.

CalHFA also requests that CDLAC waives any forfeiture of the performance deposit or assignment of negative points to the Project Sponsor that could be imposed by this request.

If the extension is granted, the project is expected to close by May 2022.

Contact Kevin Brown at 916-326-8808 or kbrown@calhfa.ca.gov if you have any questions related to this request.

Thank you,



Kate Ferguson
Director of Multifamily Programs



MirkaInvestments

Affordable Housing Development ♦ Asset Management
Financial Engineering ♦ Project Finance

01/05/2022

Kevin Brown
Housing Finance Specialist
CalHFA- Multifamily Programs
California Housing Finance Agency
500 Capitol Mall, Suite 400, MS 990
Sacramento, CA 95814

Dear Mr. Brown,

On August 11, 2021, Crest on Imperial LP, received an allocation of tax-exempt bonds (Resolution No. 21-177) for the Crest on Imperial project, located at 101 50th Street, 5020 Imperial Avenue, in San Diego, CA. Due to the COVID-19 pandemic and most recently the Omicron variant, the City of San Diego is experiencing an extreme staffing shortage which has resulted in a permit backlog and extensive delay in permitting processing time. Permits are now taking 6-9 months to obtain, where they previously were received within 4-6 months.

While we are working closely with the City's planning department to execute the permits by the February 7th, 2022, deadline, the staffing shortage caused by the pandemic is impeding on their ability to do so. Due to the limitations caused by the COVID-19 pandemic and the disruption in permit processing times from the city, we are requesting a 90-day extension of the Bond Issuance deadline to May 8th, 2022.

We appreciate your understanding and cooperation in granting an extension to this much needed and anticipated Project; doing so will allow the development team the opportunity to receive the permit ready letter or permits in a timeframe within the requested extension period. Please do not hesitate to contact Kursat Misirlioglu at kursatm@mirkainvest.com or 619.599.3852 should you have any questions.

Sincerely,

Kursat Misirlioglu, CEO

January 13, 2022

California Debt Limit Allocation Committee
915 Capital Mall, Room 311
Sacramento, CA 95814
Attn: Nancee Robles, Interim Executive Director

Re: Request for 90- Day Extension to Bond Issuance Deadline
Project Name: Crest on Imperial
CDLAC Resolution #: 21-177
CDLAC App#: 21-580

Dear Ms. Robles,

This letter is to confirm that **Crest on Imperial**, located at 101 50th Street, 5020 Imperial Avenue, is a new affordable housing development located within the City of San Diego that has submitted for building permits. The project's development team submitted plans to the City of San Diego Planning Department on 11/12/21 to undergo ministerial review. You may view the project processing here: PRJ-[1045712](#)

Due to the COVID-19 pandemic and transition to digital permitting, the City's Development Services Department is experiencing both an increase in workload volume and a considerable delay in permit processing due to staffing issues. This has resulted in a backlog of permit approvals and extremely long processing times (simply submitting a project now takes 20 business days in some cases).

City of San Diego supports the extension request submitted by the Project owner and believe an extension of 90 days will allow the City additional time to process and issue permits to the Project. I can be reached at 619-446-5423 for further information.

Thank you,



Elyse W. Lowe, Director
Development Services Department

Cc: Gary Geiler, Assistant Director, Development Services Department
Keely Halsey, Assistant Director, Development Services Department



California Debt Limit Allocation Committee

AGENDA ITEM 6

Adoption of the 2022 State Ceiling on Qualified Private Activity Bonds

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
January 19, 2022
ADOPTION OF THE 2022 STATE CEILING ON QUALIFIED TAX-EXEMPT PRIVATE ACTIVITY
BONDS
(Agenda Item No. 6)

ACTION: Adopt the 2022 State Ceiling for Qualified Tax-Exempt Private Activity Bonds.

BACKGROUND: Section 146 of the Internal Revenue Code (the "Code") limits the amount of qualified tax-exempt private activity bond debt that may be issued in a state during a calendar year ("Annual State Ceiling"). Section 146(d) of the Code was amended by H.R. 5662, the "Community Renewal Tax Relief Act of 2000 (the "Act"), to specify that beginning in calendar year 2002 the limit shall be the greater of \$75 multiplied by a state's population or \$225 million. The Act further specifies that beginning in calendar year 2003 the volume limit may be adjusted annually for inflation. Pursuant to Revenue Procedure 2021-48 published by the Internal Revenue Service, the volume limit on qualified tax-exempt private activity bonds adjusted for inflation for calendar year 2022 is \$110 multiplied by the state's population.

DISCUSSION: Section 146(j) of the Code further requires that the calculation of the Annual State Ceiling be based on the most recent resident population estimate released by the U. S. Bureau of the Census before the beginning of the calendar year. On December 21, 2021, the U.S. Census Bureau issued Press Release CB21-208, reporting California's population as 39,237,836. This is the population estimate for 2021. The population decreased by 0.33% from the population estimate of 39,368,078 used to set the 2021 Annual State Ceiling. The change in the population estimate results in a new 2022 bond volume cap of \$4,316,161,960. In terms of dollars, this is a \$14,326,620 decrease from the 2021 State Ceiling.

COMMENTS:

1. The Internal Revenue Service has announced that the 2022 volume limit on qualified private activity bonds adjusted for inflation is the same as 2021; \$110 multiplied by a state's population.
2. The U.S. Census Bureau has reported that California's estimated population is 39,237,836.
3. Per CDLAC regulation §5010, the Committee shall determine and announce the 2022 State Ceiling as soon as is practicable after the start of the calendar year, and shall determine and announce the establishment of either an Open Application Process or a Competitive Application Process, or both, for each State Ceiling Pool.
4. The California 2022 State Ceiling on qualified tax-exempt private activity bonds is \$4,316,161,960 (calculated as \$110 x 39,237,836).

RECOMMENDATION: Adopt Resolution No. 22-001 establishing the 2022 State Ceiling for qualified tax-exempt private activity bonds of \$4,316,161,960 and determine the 2022 allocation year as a Competitive Application Process in all pools.

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
RESOLUTION NO. 22-001
RESOLUTION ADOPTING THE 2022 STATE CEILING FOR
QUALIFIED TAX-EXEMPT PRIVATE ACTIVITY BONDS**

WHEREAS, the California Debt Limit Allocation Committee (the "Committee") is authorized by Chapter 11.8, commencing with Section 8869.80, of the California Government Code ("State Code") to implement the Federal Tax Reform Act of 1986, 26 U.S.C. Sections 141, et seq. ("Federal Code"), as amended, which establishes a unified volume ceiling ("State Ceiling") on the aggregate amount of Qualified Tax-Exempt Private Activity Bonds which can be issued in each state; and

WHEREAS, the Committee is directed by the State Code to establish the Annual State Ceiling as soon as practicable after the beginning of the calendar year; and

WHEREAS, the Internal Revenue Service Revenue Procedure 2021-48 announced that for calendar year 2022, the State Ceiling for qualified private activity bonds adjusted for inflation is \$110 multiplied by the state population; and

WHEREAS, the U. S. Bureau of the Census, in Press Release #CB21-TPS.208 dated December 21, 2021 reported the estimated State of California's population as 39,237,836.

NOW, THEREFORE, the California Debt Limit Allocation Committee resolves as follows:

Section 1. The 2022 Annual State Ceiling on Qualified Tax-Exempt Private Activity Bonds is hereby adopted as \$4,316,161,960.

Section 2. This Resolution shall take effect immediately upon its adoption.

* * *



California Debt Limit Allocation Committee

AGENDA ITEM 7

Adoption of the 2022 Committee Meeting Calendar and Award Schedule

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

January 19, 2022

**Proposed CDLAC Committee Meeting Schedule for
2022**

(Agenda Item No. 7)

ACTION:

Approve CDLAC Committee Meeting Schedule for 2022.

DISCUSSION:

Section 5030 of the CDLAC Regulations require the Committee - as soon as practical after the start of the calendar year, give notice of the dates and deadlines to submit Applications for each Allocation Round.

Staff is recommending two meetings to allocate Qualified Residential Rental Projects (QRRP) and three meetings to allocate other Exempt Facilities bond authority as well as one of those meetings to recommend regulation changes for 2022. The allocation rounds will be discussed in more detail in Agenda Item No. 8. The 2022 schedule has been prepared in coordination with the California Tax Credit Allocation Committee calendar for 4% state tax credit awards. The schedule of dates for those meetings are in the following attachment. The Committee retains the right to alter the schedule at public meetings.

RECOMMENDATION:

Staff recommends approval of the 2022 CDLAC Committee Meeting Schedule.



California Debt Limit Allocation Committee

Proposed Schedule*

2022 Meeting Schedule and Application Due Dates

Qualified Residential Rental Projects (QRRP) Application Deadline for Corresponding Meeting Date	Non-QRRP Exempt Facility (EXF) Application Deadline for Corresponding Meeting Date	2022 Committee Meeting Date	Proposed Rounds and Topics
		January 19, 2022	State Ceiling Pool Assignments
	February 23, 2022	April 27, 2022	First Round EXF and Regulations
March 16, 2022		June 15, 2022	First Round QRRP
	May 18, 2022	July 20, 2022	Second Round EXF
	August 3, 2022	September 28, 2022	Third Round EXF
July 7, 2022		October 19, 2022	Second Round QRRP

*Draft for Committee Consideration and Dates Dependent on Regulation Change Schedule



California Debt Limit Allocation Committee

AGENDA ITEM 8

Adoption of Allocation Apportionments of the 2022 State Ceiling

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

January 19, 2022

ADOPTION OF THE APPORTIONMENT OF THE 2022 STATE CEILING AMONG THE STATE CEILING POOLS AND DETERMINE COMPETITIVENESS

(Agenda Item No. 8)

ACTION:

Establish the 2022 Program in accordance with §5010 of the Committee's Regulations to determine and announce an Open Application Process or a Competitive Application Process and §5020 to determine and announce the State Ceiling Pools and amounts to be available for allocation in each allocation round.

BACKGROUND:

In accordance with the regulations, at the beginning of each calendar year the Committee must determine and announce what amount – expressed both as a percentage and as a dollar amount of the State Ceiling – shall be available for allocation during the year and in each Allocation Round to Qualified Residential Rental Projects (QRRP) from the Qualified Residential Rental Project Pool.

In Agenda Item No. 6 of this Committee Meeting, it was established the State Ceiling amount for 2022 is \$4,316,161,960.

DISCUSSION:

Staff surveyed issuers and the affordable housing development community to determine estimated demand for authority to issue Private Activity Tax-Exempt Bonds using allocation of the 2022 State Ceiling. The survey determined the demand for QRRP at about \$8.7 billion, Single Family Housing \$400 million, and other Exempt Facilities at just more than \$4 billion. This total amount of more than \$13.2 billion exceeds the State Ceiling for 2022 by 3X the amount available. Due to the high demand for bond allocation staff will recommend that all pools be competitive in 2022.

Staff are making recommendations based on analysis of demand, direction given by the Committee in public meetings, and stakeholder feedback. On December 6, 2021, the Committee voted to adopt three rounds in 2022, with the first round utilizing existing regulations, and the last two rounds with the new tiebreaker to be amended in regulations and in place by June 30, 2022. After further evaluation, staff implores the Committee to consider two rounds of QRRP Allocation and three rounds of other Exempt Facility Allocation.

Two rounds of QRRP Allocation are necessary due to the uncertainty of the timing of the proposed amended regulations, a factor that is out of the control of staff and the Committee. It would be irresponsible to assume the regulatory process will perform perfectly in these unprecedented times of economic uncertainty and multiple variants of the COVID-19 pandemic. The last 22 months have proven that delays are inevitable across all spectrums. In addition to affording more time in between rounds, only having one round in the second half of the year, allows for more time to allocate any possible reverted allocation before the end of the year.

Two rounds will also allow larger projects more opportunity, as staff will recommend one third of the State Ceiling be in the first round and two thirds in the second, with two exceptions: 1) Staff will recommend the Mixed Income Pool (MIP) be frontloaded, meaning the entire pool allocated for MIP under the current regulation of percentage (20%) of set aside will be available in the first round. This will allow MIP to immediately deploy its projects that are waiting in the pipeline and return any unused allocation before the second round of awards are allocated. 2) Staff will recommend that other Exempt Facilities have three equal rounds.

Exhibit A illustrates the detailed breakdown of allocation apportionment recommended. It is proposed that the first-round percentages remain the same as the final round of 2021, that adhere to present regulations and \$600 million be allocated to other Exempt Facilities. Of the remaining State Ceiling, 60% will be reserved for Non-Geographic Pools and 40% for Geographic Regions. The second-round allocation apportionment will change when new regulations are adopted and in effect on or after June 30, 2022.

RECOMMENDATION:

Staff recommends apportionment of the 2022 State Ceiling Pools per Exhibit A that further includes apportionment by allocation round. In addition, staff recommends the 2022 Program Year be determined a Competitive Application Process for QRRP and other Exempt Facilities.

EXHIBIT A
Pool Apportionment Recommendation
of 2022 State Debt Ceiling

\$3,716,161,960		QRRP TOTAL		ANNUAL	ROUND 1	ROUND 2
\$600,000,000		EXF TOTAL			BUDGET	BUDGET
\$4,316,161,960		2022 STATE DEBT CEILING		100%	41%	59%
NON-GEOGRAPHIC POOLS			60%	\$2,229,697,176	\$1,040,465,890	\$1,189,231,286
BIPOC	5%	\$111,484,859		\$37,157,903	\$74,326,955	
Preservation	14%	\$312,157,605		\$104,042,130	\$208,115,475	
Other Rehabilitation	1%	\$22,296,972		\$7,431,581	\$14,865,391	
Rural - New Construction	5%	\$111,484,859		\$37,157,903	\$74,326,955	
New Construction (NC) Set Aside						
Homeless	25%	\$557,424,294		\$185,789,517	\$371,634,777	
ELI/VLI (Average 50% AMI or Below)	30%	\$668,909,153		\$222,947,421	\$445,961,732	
State Funded Mixed Income (frontloaded)	20%	\$445,939,435		\$445,939,435	\$0	
TOTAL POOLS/SET ASIDES			100%			
Geographic Regions			40%	\$1,486,464,784	\$495,438,713	\$991,026,071
Coastal Region	20%	\$297,292,957		\$99,087,743	\$198,205,214	
City of Los Angeles	17%	\$252,699,013		\$84,224,581	\$168,474,432	
Balance of LA County	16%	\$237,834,365		\$79,270,194	\$158,564,171	
Bay Area Region	21%	\$312,157,605		\$104,042,130	\$208,115,475	
Inland Region	16%	\$237,834,365		\$79,270,194	\$158,564,171	
Northern Region	10%	\$148,646,478		\$49,543,871	\$99,102,607	
TOTAL NC GEOGRAPHIC REGIONS			100%			
QRRP TOTALS				<u>\$3,716,161,960</u>	<u>\$1,535,904,603</u>	<u>\$2,180,257,357</u>
OTHER EXEMPT FACILITIES	ANNUAL			ROUND 1	ROUND 2	ROUND 3
	100.00%			BUDGET	BUDGET	BUDGET
	<u>\$600,000,000</u>			33.33%	33.33%	33.33%
				<u>\$ 200,000,000</u>	<u>\$ 200,000,000</u>	<u>\$ 200,000,000</u>

**CDLAC
Demand Survey Results 2022**

Private Activity Bond Program	Total Demand per Program		# of Projects	
QRRP's	\$	8,670,680,710	268	
Single Family Housing	\$	409,000,000		
IDB's	\$	-		
Exempt Facility	\$	4,138,830,000	18	
TOTAL PAB DEMAND	\$	13,218,510,710	286	
BIPOC	\$	69,563,311	3	
Homeless, ELI/VLI	\$	2,972,847,493	79	
MIP	\$	950,470,000	21	
Rural	\$	90,000,000	4	
Preservation	\$	132,500,000	7	
Other Rehab	\$	118,500,000	8	
Geographic	\$	3,955,498,398	62	
TBD	\$	566,864,827	92	
	% of Demand in Regions			Average per project
Bay Area	33.77%	\$ 2,928,382,397	75	\$ 39,045,098.63
Northern	14.30%	\$ 1,240,192,165	34	\$ 36,476,240.15
Los Angeles City	13.34%	\$ 1,156,496,098	41	\$ 28,207,221.90
Los Angeles County	6.58%	\$ 570,528,960	15	\$ 38,035,264.00
Coastal	15.48%	\$ 1,342,069,260	51	\$ 26,315,083.53
Inland	5.73%	\$ 496,541,830	24	\$ 20,689,242.92
TBD	10.80%	\$ 936,470,000	28	\$ 33,445,357.14
Region Totals		\$ 8,670,680,710	268	

COMPARISON OF APPORTIONMENT RECOMMENDATIONS OF THE COMMITTEE FOR 2022
DECEMBER 22, 2021 (REVISED JAN 13, 2022)

	Controller's Office	Administration	Treasurer's Office
Exempt Facilities	\$0	\$510.4 M	\$600 M
CalVET	\$0	\$89.6 M	\$0
Set-Aside Pools	100%	60% after EXF	\$60% after EXF
BIPOC	5%	5%	5%
Preservation	14%	15%	14%
Other Rehabilitation	1%	1%	1%
Rural – New Construction	5%	6%	5%
New Construction	75%	-	-
Homeless	25%	23%	25%
ELI/VLI	20%	27%	30%
State Funded Mixed Income	0%	23%	20%
Geographic Regions	Homeless and ELI/VLI count against the Geographic Region FMR X Population	40% after EXF *Modify the regions to better align counties with similar FMRs	40% after EXF
Coastal Region	25.1%	21%	21%
City of Los Angeles	-	17%	18%
Balance of Los Angeles	-	16%	17%
Los Angeles (combine the two above)	26.9%	-	-
Bay Area Region	22.5%	21%	17%
Inland Region	16%	16%	17%
Northern Region	9.5%	9%	10%

*The Administration's proposed changes to the Geographic Regions and allocation were not discussed at the December 22, 2021 meeting and will be discussed at the January 19, 2022 meeting.

Administration's Proposed County Shift:

- Marin County from Northern to Bay Area
- Santa Cruz County from Coastal to Bay Area
- San Joaquin County from Inland to Northern
- Napa County from Northern to Coastal
- Sonoma County from Northern to Coastal



AGENDA ITEM 9

Adoption of the Qualified Residential Rental Program (QRRP) minimum Point Threshold for the 2022 Program Year

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

January 19, 2022

Recommendation for Adoption of the Qualified Residential Rental Program (QRRP)

Minimum Point Threshold for the 2022 Program Year

(Agenda Item No. 9)

ACTION:

Set the minimum point threshold for Qualified Residential Rental Program (QRRP) projects for tax-exempt private activity bond allocation for the remaining 2022 program year.

BACKGROUND:

Under Section 5010(c) of the Committee regulations, the Committee shall establish a minimum point threshold for the New Construction, Rural, Preservation, Other Rehabilitation and BIPOC Pools as determined in section 5020. Applications for tax-exempt private activity bond allocation for QRRP are scored using the CDLAC scoring system pursuant to Section 5230 of the Committee's regulations. Historically the minimum point threshold has proven to strengthen the applicant pool.

DISCUSSION:

Creating a minimum threshold will signal prospective applicants that the Committee will not entertain weak applications, and give staff the ability to efficiently spend its efforts on the worthiest applications. Staff believes this will ensure allocation is awarded to higher quality projects and is confident that adequate demand will remain for the available allocation. This will help avoid using precious resources on low-scoring applications that meet relatively few public policy objectives.

For 2022, the minimum threshold recommended is 105 points with the exception of the Other Rehabilitation Pool that is recommended at 99 points.

RECOMMENDATION:

Staff recommends approval of Resolution No. 22-002 for a minimum point threshold of 105 points for the New Construction, Rural, Preservation, and BIPOC Pools and a minimum point threshold of 99 points for the Other Rehabilitation Pool for the 2022 program year.

RESOLUTION NO. 22-002

RESOLUTION OF THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
APPROVING MINIMUM POINT THRESHOLD FOR THE 2022 PROGRAM YEAR

WHEREAS, Applications for tax-exempt private activity bond allocation for Qualified Residential Rental Program projects are scored within allocation pools using a scoring system pursuant to Section 5230 of the Committee's regulations; and;

WHEREAS, pursuant to Section 5010(c) of the Committee's regulations, the Committee shall establish a minimum point threshold for the allocation pools as determined in Section 5020 of the Committee's regulations;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMITTEE, that the minimum point threshold cutoff for the Qualified Residential Rental Program scoring system for the 2022 program year shall be one-hundred and five (105) points with the exception of the Other Rehabilitation Pool that shall be at ninety (99) points.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption.

CERTIFICATION

I, Nancee Robles, Interim Executive Director of the California Debt Limit Allocation Committee, hereby certify that the above is a full, true, and correct copy of the Resolution adopted at a meeting of the Committee held in the Jesse Unruh Building, 915 Capitol Mall, Room 587, Sacramento, California 95814, on January 19, 2022 at 11:00 am. with the following votes recorded:

AYES: State Treasurer Fiona Ma, CPA
Gayle Miller for Governor Gavin Newsom
Anthony Sertich for State Controller Betty T. Yee

NOES: None

ABSTENTIONS: None

ABSENCES: None

Nancee Robles, Interim Executive Director
Date: January 19, 2022



California Debt Limit Allocation Committee

AGENDA ITEM 10

Adoption of Permanent Regulations

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

January 19, 2022

Recommendation for Adoption of the Proposed Regulations

(Agenda Item No. 10)

ACTION:

Approve Regulations to permanently establish Qualified Residential Rental Projects (QRRP) competitive application process used in 2020 and 2021.

BACKGROUND:

In response to a historic increase in demand for tax-exempt bond allocation for QRRP, CDLAC established and refined a new competitive application process through the Emergency Regulation process during 2020 and 2021.

DISCUSSION:

To ensure meaningful impact on the affordable housing shortage in California, the Committee continues to work to refine the QRRP application process during ongoing discussions at Committee meetings. In an effort to thoughtfully refine the process, the committee voted at the December 6, 2021, meeting to allow an additional regulation change to enable CDLAC to make awards during the first round of 2022 under the currently established guidelines.

In order to continue using the Regulations established through the Emergency Regulation process, staff must file a request with the Office of Administrative Law to permanently establish those Regulations. All of the regulation changes being proposed today have already been approved by this Committee.

List of regulations to be modified:

Title 4, Section 5000. Definitions

Title 4, Section 5010. Determination of State Ceiling, Competitiveness, & Minimum Points

Title 4, Section 5020. Determination of State Ceiling Pools

Title 4, Section 5022. Geographic Apportionments

Title 4, Section 5033. Minimum Application Requirements

Title 4, Section 5035. Preliminary Recommendations

Title 4, Section 5036. Appeals to Preliminary Recommendations

Title 4, Section 5037. Final Recommendations

Title 4, Section 5050. Performance Deposit Requirements

Title 4, Section 5052. Forfeiture of Performance Deposit

Title 4, Section 5053. Withdrawn or Denied Applications

Title 4, Section 5060. Minimum Requirements

Title 4, Section 5062. Private Placement Sales

Title 4, Section 5100. Program Expiration Dates

Title 4, Section 5101. Extensions to Expiration Dates
Title 4, Section 5102. Recovery Zone Bond Extensions
Title 4, Section 5103. Five Day Hardship Extensions.
Title 4, Section 5133. Use of Carryforward.
Title 4, Section 5141. Notification of Bond Issue
Title 4, Section 5144. Annual Applicant Public Benefits and On-Going Compliance
Title 4, Section 5153. Measurement of Distance
Title 4, Section 5170. Definitions
Title 4, Section 5180. Application Process
Title 4, Section 5190. Readiness
Title 4, Section 5191. Income and Rent Restrictions
Title 4, Section 5192. Minimum Term of Restrictions
Title 4, Section 5194. Project Sources & Uses and Project Costs.
Title 4, Section 5205. Minimum Requirements
Title 4, Section 5210. Minimum Expenditures
Title 4, Section 5211. Tenant Relocation.
Title 4, Section 5212. Capital Needs Assessment.
Title 4, Section 5220. Regulatory Compliance
Title 4, Section 5230. Evaluation Criteria
Title 4, Section 5231. Ranking
Title 4, Section 5232. Competitive Application Process Maximum Allocation Amount
Title 4, Section 5233. Allocation Limits
Title 4, Section 5240. Supplemental Allocation Process
Title 4, Section 5241. Realignment of Expiration Dates
Title 4, Section 5250. Application Requirements
Title 4, Section 5251. Evaluation Criteria
Title 4, Section 5422. Permits
Title 4, Section 5432. Non-Solid Waste Projects
Title 4, Section 5490 - 5731. Recovery Zone Economic Development Bond Program

The Committee is authorized to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations (California Government Code 8869.94).

RECOMMENDATION:

Staff recommends approval of the proposed Regulations.

Chapter 1. General Provisions. Article 1. Definitions

§ 5000. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this division are defined as follows:

“Accredited Investor”, also known as a “Sophisticated Investor”, means an entity as defined by the United States Securities and Exchange Commission under Rule 501, regulation D of the Securities Act of 1933.

“Allocation” means the portion of the State Ceiling awarded by the Committee to an Applicant.

“Allocation Round” means a meeting or series of meetings of the Committee during which a predetermined portion of the State Ceiling is made available for allocation by the Committee to one or more Applicants selected by the Committee during that meeting or series of meetings.

“Annual Applicant Public Benefits and Ongoing Compliance Self-Certification (Revised 9/20/17)”, hereby incorporated by reference, means the document in the online compliance certification system to be completed by the Issuer in which the Issuer certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

“Applicant” means the following entities submitting an Application to the Committee:

- a state or local governmental agency; or
- a joint powers authority (JPA) applying for bond allocation for a project, except for projects described in Government Code Section 6586.5(c), that is or will be located entirely within the geographical boundaries of one or more of the JPA's members; or
- a special district; or
- a nonprofit public benefit corporation that issues only student loan bonds; or
- any other public agency that is empowered to issue debt.

“Application” means the request by an Applicant to the Committee for an Allocation of the State Ceiling which shall include the information specified in article 4 of this chapter.

“Bond” means either a Qualified Private Activity Bond or a Governmental Bond as defined in this section.

“Bond Default” means a material default as defined within an Issuer's Bond documents, but does not include for the purposes of this definition, defaults that are technical in nature such as a failure to maintain covenants, failing to charge rates sufficient to meet rate covenants, failing to maintain insurance on the Project, or failing to fund various reserves.

“Bond Issuance and Post Issuance Compliance Policies” means policies established by an Applicant to guide the process of issuing private activity bonds and ensuring post-issuance compliance including but not limited to a description of the fee structure, application and approval process (including TEFRA),

threshold eligibility criteria for applicants and projects, long term regulatory requirements (if any), and monitoring practices.

“Bond Regulatory Agreement” means the agreement between the Issuer, Project Sponsor, and any third party related to the ownership, financing, and management of a proposed Qualified Residential Rental Project ~~or Qualified Public Educational Facility Project~~ that binds the parties to the commitments made in the Application that resulted in the Allocation for the Project and any other requirements mandated by 26 U.S.C. section 142.

“CIEDB” means the California Infrastructure and Economic Development Bank.

“Cash Flow Permanent Bond” means a bond where the identified payment source is based on cash flow availability in the form of residual payments and that are issued for the purposes of providing permanent financing that (i) does not meet CDLAC's Debt Service Coverage Ratio requirement in Section 5193 and that, (ii) together with all other Bonds not meeting CDLAC's Debt Service Coverage Ratio requirements in Section 5193 (if any), exceed 5% of the total project cost.

“Census Designated Place” means a place designated as a census designated place by the Bureau of the Census.

“Certificate of Completion for Non-Qualified Residential Rental Projects” (Revised 06-01-2017), hereby incorporated by reference, submitted by the Project Sponsor of a Non-Qualified Residential Rental Project, certifies that all work on the Project was substantially completed, along with the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer's signature indicates that no more than 2% of the proceeds of the bonds issued were spent on the cost of the bond issuance.

“Certificate of Completion for Qualified Residential Rental Projects” (Revised 06-01-2017), hereby incorporated by reference, submitted by the Project Sponsor of a Qualified Residential Rental Project, and certifies that all work on the Project was substantially completed, along with the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer's signature indicates that no more than 2% of the proceeds of the bonds issued were spent on the cost of the bond issuance.

“Certification of Compliance I (Revised 11-16-16)”, hereby incorporated by reference, means the document provided in the Committee Resolution to be completed by the Project Sponsor in which the Project Sponsor certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

“Certification of Compliance II for Non-Qualified Residential Rental Projects” (Revised 9/20/17), hereby incorporated by reference, is a form for Applicant/Issuers awarded allocation in 2017 forward. Applicant/Issuers retain the Certification form for a period of three years in place of the Certification of Compliance I (11-16-16) to ensure that the Project Sponsor is reporting all relevant compliance and possible changes to the Project or program to the Applicant.

“Certification of Compliance II for Qualified Residential Rental Projects” (Revised 06-01-2017), hereby incorporated by reference, is a form for Applicant/Issuers awarded allocation in 2017 forward. Applicant/Issuers retain the Certification form for a period of three years in place of the Certification of Compliance I (11-16-16) to ensure that the Project Sponsor is reporting all relevant compliance and possible changes to the Project or program to the Applicant.

“Committee” means the California Debt Limit Allocation Committee established by California Government Code sections 8869.80 et seq.

“Committee Resolution” means for any Allocation, the resolution duly adopted by the Committee that, among other things, memorializes the grant of the Allocation by the Committee to the Applicant.

“Competitive Application Process” means the procedure under which the Committee will evaluate an Application for an award of Allocation that is competitive based upon the number of points each Application is awarded. Applications submitted under this process will be awarded points only when the Project qualifies for such points and evidence supporting an award of points is documented in the Application when submitted. ~~The Committee will not consider documentation for an award of points submitted after the Application deadline, nor will the Committee review an incomplete Application except to determine whether the Application is complete. The Committee will not consider an application that is deemed incomplete by CDLAC staff.~~

“Credit Enhancement” means the additional assurance provided by a third party pursuant to a payment guaranty, letter of credit, bond insurance or other similar vehicle with a marketable investment grade credit rating.

“Credit Enhancer” means the party providing Credit Enhancement.

“CSFA” means the California School Finance Authority.

“CTCAC” means the California Tax Credit Allocation Committee.

~~“Deemed Waived” means any designated Recovery Zone Bond Allocation not issued or included in a Plan of Issuance by August 15, 2010 that may automatically be deemed returned to CDLAC for reallocation.~~

“Distressed Community” means a community that the Applicant demonstrates to be any one or more of the following:

- A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department's most recent annual average for sub-county areas.
- A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.
- A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place such as a census tract or tracts, smaller geographic areas will be used.

- A community or county affected by a state of emergency within California and declared a disaster by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture, or declared to be in a State of Emergency by the Governor of the State of California.

“Draw-down Bond Issuance” means a draw-down loan as defined for purposes of 26 U.S.C. sections 103 and 141 through 150 (generally, a Bond issue in which Bonds are delivered to the Bond purchaser intermittently as funds are needed by the Bond Issuer and the Bond Issuer only provides payments based on the amount of Bonds drawn-down).

“Executive Director” means the Executive Director of the Committee.

“Exempt Facility Project” means a Project financed with an exempt facility bond satisfying the requirements of 26 U.S.C. section 142, except that airports, docks and wharves, governmentally owned solid waste disposal facilities, and Qualified Residential Rental Projects shall not be considered exempt facilities for purposes of these regulations.

“Exempt Facility Project Pool” means the reserve of the State Ceiling established by the Committee for Exempt Facility Projects.

“Extra Credit Teacher Home Purchase Program” means a program offering Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds to eligible teachers, eligible administrators, eligible classified employees, and eligible staff members for the purpose of assisting them in becoming homeowners.

“Extra Credit Teacher Home Purchase Program Pool” means the reserve of the State Ceiling established by the Committee for the Extra Credit Teacher Home Purchase Program.

“Federally Bond-Restricted Units” are Project units that are restricted pursuant to 26 U.S.C. Section 142 (d)(1)(A) or (B).

“General Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee that does not include either Rural Projects or Mixed Income Projects.

“Governmental Bond” means a Bond issued by or on behalf of a governmental entity that is not considered a Qualified Private Activity Bond.

“Investor Representation Letter” means a letter from initial investors of a Bond offering that includes but is not limited to a certification that they reasonably meet the standards of a Sophisticated Investor or Qualified Institutional Buyer, that they are purchasing Bonds for their own account, that they have the sophistication to evaluate the merits and risks of the investment and suffer a loss of the investment, that they have been furnished all the information which they and their advisers requested on the offering and have had an opportunity to ask questions relating to that information, and other such matters.

“Issuer” means an entity empowered to issue Bonds.

“Job Creation” means new permanent full-time jobs created by the Project Sponsor. The number of jobs created shall be calculated after deducting any jobs within the State that are eliminated by the company. Job Creation must be met within two (2) years following the completion of the Project. The

Job Creation requirement may be monitored by CIEDB utilizing California Employment Development Department employment statistics.

“Job Wage” means the average hourly general manufacturing wage for the Metropolitan Statistical Area in which a Project is located, based on the Bureau of Labor Statistics Series Code from the California Employment Development Department. If a Project is not located in an area for which the Employment Development Department keeps hourly wage data or not located in a defined Metropolitan Statistical Area, the closest comparable area in which hourly wage is available may be used.

“LEED Certified” means Leadership in Energy & Environmental Design certification by the U.S. Green Building Council.

“Local Issuer” means a local government entity that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs or small-issue industrial development Bonds or a joint powers authority that issues small-issue industrial development Bonds on behalf of a local government entity.

“Market Study” means a comprehensive document prepared by a third party which contains information related to the Project's market area.

“Metropolitan Statistical Area” means the geographic entity defined by the U.S. Office of Management and Budget (OMB).

~~“Mixed Income Project” means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units.~~

“Mixed Income Project” means a Qualified Residential Rental Project that is a New Construction project and either (1) is not utilizing the Average Income test of Internal Revenue Code Section 42 (g)(1)(C) and has 50% or fewer of its total units designated as Restricted Rental Units, or (2) is part of the California Housing Finance Agency Mixed-Income Program. In a Competitive Application Process, a Mixed Income Project may only apply for an allocation of tax-exempt bonds if the ratio of tax-exempt bonds, not including recycled bonds, to aggregate depreciable basis plus land basis is less than or equal to the ratio of units that will be restricted pursuant to a CTCAC regulatory agreement.

~~“Mixed Income Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.~~

“Mortgage Credit Certificate” means a mortgage credit certificate as defined by 26 U.S.C. section 25(c)(1).

“Mortgage Revenue Bond” means a bond defined by 26 U.S.C. section 143(a).

“Mortgage Revenue Bond Program” means a program defined by 26 U.S.C. section 143(a).

“Nationally Recognized Statistical Rating Organization” means credit rating agencies that satisfy the requirements of 15 U.S.C. section 78(c)(62).

~~“Net Proceeds” means proceeds used for “recovery zone property” as defined in 26 U.S.C. 1400U-3(b)(1)(A).~~

“New Construction Pool” - QRRP projects applying for an allocation of tax-exempt private activity bonds who meet at least one of the following: (1) the definition of New Construction in Section 5170, (2) projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater or (3) adaptive re-use of non-residential structures.

“Open Application Process” means the procedure under which the Committee will evaluate an Application for an award of Allocation that is not competitive. The Committee will not review an incomplete Application except to determine whether the Application is incomplete and notify the Applicant of the deficiency.

“Performance Deposit Certification” means the form titled “Performance Deposit Certification Form for an Application for an Allocation of Qualified Private Activity Bonds” (revised 1-18-12), which is hereby incorporated by reference.

“Placement Agent or Underwriter Statement” means the statement provided by the firm contracted to market the Bonds proposed in the Application that includes a brief paragraph on the firm's history and principals, a summary of the firm's non-binding initial underwriting review, an overview of proposed issuance structure including anticipated debt service coverage ratio, and a statement certifying that the proposed transaction has been initially underwritten and meets the firm's standards for participation.

~~“Plan of Issuance” means a report due to CDLAC from a county or municipality receiving a U.S. Treasury Designated Recovery Zone Bond Allocation that includes the following: One, a brief description of the Project(s) to be funded utilizing RZBs, including the proposed qualifying project type, sponsor contact information and anticipated Bond amounts; Two, a copy of the locally approved resolution designating the area in which the proposed Project(s) are located as a Recovery Zone(s); Three, an identification of the local approvals obtained to date; and Four, the anticipated construction start date and timeline for project completion and Bond issuance.~~

“Project” means the subject property for which an Application for Allocation has been submitted.

“Project Sponsor” means the entity, or CDLAC authorized affiliate thereof, using the proceeds of a Bond issue to complete the Project described in the Application.

“Project Wage” means the average hourly wage of the jobs created by a Project.

“Public Transit Corridor” means an existing or planned public mass transit guideway or busway station, or multimodal transportation terminal serving public mass transit operations within one-third mile of the Project.

~~“Qualified Business” means any trade or business as defined under 26 U.S.C. section 1400U-3(c)(2) which exempted “(1) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not a residential rental property as defined in 26 U.S.C. section 168(e)(2); and (2) such term shall not include any trade or business consisting of the operation of any facility described in 26 U.S.C. section 144(c)(6)(B).”~~

“Qualified Institutional Buyer (QIB)” means an entity defined by the United States Securities and Exchange Commission in Rule 144A under the Securities Act of 1933.

“Qualified Private Activity Bond” means a Bond that satisfies the requirements of 26 U.S.C. sections 141 et seq.

~~“Qualified Public Educational Facility Bond Pool” means the reserve of Qualified Public Educational Facility Bonds established by the Committee for Qualified Public Educational Facilities pursuant to IRC section 142(k).~~

“Qualified Recovery Zone Bond Issuer” means eligible Issuers of Recovery Zone Bonds including states, political subdivisions as defined for purposes of U.S. Treasury Regulations, Section 103, and entities empowered to issue Bonds on behalf of any such entity under rules similar to those used to determine whether a Bond issued on behalf of a state or political subdivision constitutes an obligation of the state or political subdivision for purposes of U.S. Treasury Regulations, Section 103 and subchapter A, 1.103-1(b), or eligible Issuers in conduit financing issues as defined in U.S. Treasury Regulations, subchapter A, 1.150-1(b). An eligible Issuer may issue Recovery Zone Bonds based on a volume cap allocation received by the eligible Issuer itself or by a conduit borrower or other ultimate beneficiary of the issue of the Bonds.

“Qualified Residential Rental Project (QRRP)” means a qualified residential rental project as defined by 26 U.S.C. section 142(d)(1).

“Qualified Residential Rental Project Pool” means the reserve of the State Ceiling established by the Committee for Qualified Residential Rental Projects.

“Qualifying Bond Default” means a Bond Default in which the final disposition resulted in bondholders involuntarily not being paid in whole or in part.

“Recovery Zone” means an area designated by the local issuing entity defined pursuant to 26 U.S.C. section 1400U-1(b) as meeting one of the following criteria:

- Significant poverty, unemployment, rate of home foreclosures or general distress
- Economically distressed because of military base closure or realignment
- An area which has been designation as an empowerment zone or a renewal community

“Recovery Zone Bond (RZB)” means a Bond issued as a Recovery Zone Economic Development Bonds or a Recovery Zone Facility Bonds.

“Recovery Zone Economic Development Bonds (RZEDB)” means a type of Build America Bond issued before January 1, 2011 in which the Issuer shall receive a credit from the Treasury Department equal to 45% of the interest payment.

“Recovery Zone Economic Development Bond (RZEDB) Reallocation Pool” means the reserve of the amount Deemed Waived by the Committee for reallocation of Recovery Zone Economic Development Bonds.

“Recovery Zone Facility Bonds (RZFB)” means a category of Bonds created by the American Recovery and Reinvestment Act of 2009 (ARRA) that will be treated as Exempt Facility Bond Project as defined per 26 U.S.C. section 142.

“Recovery Zone Facility Bonds (RZFB) Reallocation Pool” means the reserve of the amount Deemed Waived by the Committee for reallocation of Recovery Zone Facility Bonds.

“Regulatory Period and/or Compliance Period” means for projects awarded allocation after December 31, 2016 a period of time enumerated in the CDLAC resolution whereby Annual Applicant Public Benefits and On-going Compliance Self Certification is required to be submitted. For QRRP projects the period of time will be consistent with Section 5192, for IDBs the longer of project completion or 2 years after the project completion if a job creation election is made, and for all other programs when the project is completed or allocation has been utilized.

“Related Party” means the more stringent of the constructive ownership provisions of 26 U.S.C. section 267 or the following:

- The brothers, sisters, spouse, ancestors, and direct descendants of a person;
- A person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- Two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which stock is held by the same persons or entities for:
 - At least 50% of the total combined voting power of all classes that can vote, or;
 - At least 50% of the total value of shares of all classes of stock of each of the corporations, or;
 - At least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation.
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.
- A grantor and fiduciary of any trust;
- A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- A fiduciary of a trust and a beneficiary of that trust;
- A fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;

- A person or organization and an organization that is tax-exempt under 26 U.S.C. section 501(c)(3) or (4) and that is affiliated with or controlled by that person or the person's family members, as provided in the first bullet of this section, or by that organization;
- A corporation and a partnership or joint venture if the same persons own more than:
 - 50% in value of the outstanding stock of the corporation; and
 - 50% of the capital interest, or the profits' interest, in the partnership or joint venture;
- One S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
- An S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;
- A partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
- Two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

“Report of Action Taken” means a report provided by and due to the Committee not more than three (3) business days following the use of Allocation to issue Bonds or Mortgage Credit Certificates.

“Report of Action Taken for Bonds” means the specific Report of Action Taken due to the Committee following the use of Allocation for Qualified Private Activity Bonds (excluding RZBs) titled “Report of Action Taken Regarding the Issuance of Private Activity Bonds” (revised 11-16-16), which is hereby incorporated by reference.

“Report of Action Taken for MCCs” means the specific Report of Action Taken due to the Committee following the use of Allocation to issue Mortgage Credit Certificates Bonds titled “Report of Action Taken Regarding Mortgage Credit Certificate Program” (revised 1-11-11), which is hereby incorporated by reference.

“Report of Action Taken for MCCs (Carryforward)” means the specific Report of Action Taken due to the Committee following the use and/or Carryforward of Allocation to issue Mortgage Credit Certificates titled “Report of Action Taken Regarding a Carryforward Election and a Mortgage Credit Certificate Program” (revised 11-11-11), which is hereby incorporated by reference.

“Report of Action Taken for RZBs” means the specific Report of Action Taken due to the Committee following the use of Allocation for RZBs titled “Report of Action Taken Regarding the Issuance of Recovery Zone Bonds” (revised 11-30-18), which is hereby incorporated by reference.

“Restricted Rental Units” means tenant occupied units within a Qualified Residential Rental Project that are restricted to households earning 60% or less of the applicable median family income pursuant to a Bond Regulatory Agreement ~~or a CTCAC regulatory agreement for a minimum of thirty (30) years.~~

“Rural Project” means a Qualified Residential Rental Project that is a New Construction Project located in a rural area as defined by Health and Safety Code section 50199.21 but shall not include a Mixed Income Project.

“Rural Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.

“RZEDB Application” means the Application titled “Application for an Award of American Recovery and Reinvestment Act of 2009 Recovery Zone Economic Development Bonds” (revised 5-5-11), which is hereby incorporated by reference.

“RZFB Application” means the Application titled “Application for an Award of American Recovery and Reinvestment Act of 2009 Recovery Zone Facility Development Bonds” (revised 5-5-11), which is hereby incorporated by reference.

“Single Family Housing Program” means a program satisfying the requirements of 26 U.S.C. section 25 and 26 U.S.C. section 143.

“Single Family Housing Program Bonus Pool” means a reserve within the Single Family Housing Program Pool that may be established by the Committee.

“Single Family Housing Program Pool” means the reserve of the State Ceiling established by the Committee for Single Family Housing Programs.

“Single Family Housing State Issuer” means any state agency that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs.

“Small-Issue Industrial Development Bond Project” means a Project that meets the requirements for a qualified small-issue Bond as described under 26 U.S.C. section 144.

“Small-Issue Industrial Development Bond Project Pool” means the reservation of the State Ceiling reserved for Small-Issue Industrial Development Bond Projects.

“Sophisticated Investor (SI)”, see Accredited Investor definition.

“Standard Permanent Bonds” means Bonds issued for the purposes of providing permanent Project financing which (i) meet CDLAC's Debt Service Coverage Ratio requirement in Section 5193 or (ii) are not Cash Flow Permanent Bonds.

“State Ceiling” means the amount of Qualified Private Activity Bonds that can be issued in California for each calendar year specified by 26 U.S.C. section 146(d), ~~the amount of Qualified Public Educational Facility Bonds that can be issued in California for each calendar year specified by 26 U.S.C. section 142(k),~~ and the amount reserved to California pursuant to sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 as established by and announced by the Committee in accordance with article 2 of this chapter.

“State Ceiling Pools” means the individual pools created by the Committee and as defined in this chapter.

“Student Loan Program” means a program that meets the requirements for a qualified student loan Bond under 26 U.S.C. section 144(b).

“Student Loan Program Pool” means the reserve of the State Ceiling established by the Committee for Student Loan Programs.

“Taxable Debt” means conventional financing from a major financial institution or taxable Bonds issued by a municipality including but not limited to Build America Bonds or Recovery Zone Bonds.

“TEFRA Resolution (Tax Equity and Fiscal Responsibility Act of 1982)” means an approval by the applicable elected representative of the governmental unit having jurisdiction over the proposed Project, as required by 26 U.S.C. section 147(f), that is documented and includes a certification executed by the applicable elected representative or their designee.

“Travelling Investor Representation Letter” means the certification from initial investor(s) of a Bond offering that they have no present intention of reoffering the Bonds in a subsequent public offering, but may be allow to subsequently transfer the Bonds in a limited offering to another permitted transferee provided the transferee agrees to the same representations.

“U.S. Treasury Designated Recovery Zone Bond Allocation” means Allocation received directly from the federal government pursuant to the American Recovery and Reinvestment Act of 2009.

“Undesignated Reserve Pool” (Pool) means a reserve of the State Ceiling established by the Committee for which there is no demand at the time the Pool is established.

“Verification of Zoning and Local Approvals” means the document by which the appropriate local government planning official having jurisdiction over the Qualified Residential Rental Project certifies at least the following: the Project's name, address, parcel number, housing type, the Project's compliance with all applicable local land use and zoning ordinances, a description of the Project's current zoning, maximum per unit density allowed for the Project's site, and whether the Project has obtained all local and state land use related approvals.

“Veterans Home Loan Program” means a single family housing program administered by the California Department of Veterans Affairs, satisfying the requirements of 26 U.S.C. section 143, and that is restricted to California veterans of military service.

“Welfare-to-Work Plan” means a plan as described by sections 10531, et seq. of the California Welfare and Institutions Code.

“WELL” means a Building Standard, which is a performance-based system for measuring, certifying and monitoring features of the built environment that impacts human health and wellbeing through air, water, nourishment, light, fitness, comfort and mind. WELL is managed and administered by the International WELL Building Institute.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 2. State Ceiling and Application Process

§ 5010. Determination of State Ceiling, Competitiveness, and Minimum Points.

(a) As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee shall determine and announce the State Ceiling and the portion of the State Ceiling that will be available for each of the State Ceiling Pools as set forth in article 3 of this chapter.

(b) Pursuant to subdivision (a) of this section, the Committee shall determine and announce the establishment of either an Open Application Process or a Competitive Application Process, or both, for each State Ceiling Pool. The Committee shall determine which process is best for each program pool based on factors including, but not limited to, the amount of the State Ceiling available to the pool and the history of Applications for allocations from each pool.

(c) Pursuant to subdivision (a) and (b) of this section, the Committee shall establish a minimum point threshold for the ~~General~~New Construction, Rural, Preservation, Other Rehabilitation and ~~Mixed Income Project-BIPOC~~ Pools as determined in section 5020.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.

Article 3. State Ceiling Pools

§ 5020. Determination of State Ceiling Pools.

As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee will:

(a) Determine and announce what amount, expressed both as a percentage and as a dollar amount of the State Ceiling, shall be available for Allocation during the year and in each Allocation Round to Qualified Residential Rental Projects from the Qualified Residential Rental Project Pool.

(1) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage ~~(not to exceed twenty-five percent (25%))~~ of the Qualified Residential Rental Project Pool shall be reserved in a ~~Mixed Income Pool~~ New Construction to be available for allocation to ~~Mixed Income Pool~~ New Construction Projects that are not Rural Projects, and determine what amount, if any, shall be available in each Allocation Round.

(A) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Homeless Set-Aside to be available for allocation to New Construction Projects in which at least 25% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTAC regulations, and determine what amount, if any, shall be available in each Allocation Round.

(B) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in an Extremely Low/Very Low Income Set Aside to be available for allocation to New Construction Projects that have an average AMI of 50% or below and have received either of the following, and determine what amount, if any, shall be available in each Allocation Round:

(i) an award of funding from the Department of Housing and Community Development (HCD). For purposes of this Set Aside, an award of funding from HCD shall include awards made directly by the department pursuant to the Multifamily Housing Program, the Affordable Housing and Sustainable Communities Program, the Transit Oriented Development Program, the Joe Serna Jr. Farmworker Housing Grant Program, the No Place Like Home Program, Housing for a Healthy California and the Veterans Housing and Homelessness Prevention Program. The income restrictions shall be at least as restrictive as those for which the applicant received an award from HCD. Awards made directly by the department do not include Alternative County Process awards.

(ii) an award of public funds as defined in Section 10325(c)(9) of the CTCAC regulations equivalent to 15% or more of the Project's total development cost, provided that the project meets the following criteria, as applicable:

(aa) If the project receives points as a Large Family project pursuant to Section 5230(g) and is located in a High Segregation and Poverty Area as specified on CTCAC/HCD Opportunity Area Map, the project shall have income restrictions with a range of at least 30% AMI between the highest and lowest 10% of income-restricted units that meet the requirements of Section 5230(j)(1)(C).

(bb) If the project receives points as a Large Family project pursuant to Section 5230(g) and is located in a High or Highest Resource Area as specified on CTCAC/HCD Opportunity Area Map, the project shall have income restrictions that meet the requirements of 5230(j)(1)(A).

(cc) If the project does not receive points as a Large Family project pursuant to Section 5230(g) or is located in a Moderate (Rapidly Changing), Moderate, or Low Resource Area as specified on CTCAC/HCD Opportunity Area Map, the project receives maximum points for exceeding minimum income restrictions pursuant to Section 5230(d).

(C) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Mixed Income Set-Aside to be available for allocation to New Construction Projects that are Mixed Income Projects, and determine what amount, if any, shall be available in each Allocation Round.

(2) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage (not to exceed ten percent (10%)) of the Qualified Residential Rental Project Pool shall be reserved in a Rural Project Pool to be available for allocation to Rural Projects and determine what amount, if any, shall be available in each Allocation Round.

(3) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Preservation Pool to be available for allocation to Preservation Projects and determine what amount, if any, shall be available in each Allocation Round.

(4) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in an Other Rehabilitation Pool to be available for allocation to Other Rehabilitation Projects and determine what amount, if any, shall be available in each Allocation Round.

(5) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a BIPOC Pool to be available for allocation to BIPOC Projects and determine what amount, if any, shall be available in each Allocation Round.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82 and 8869.84, Government Code.

§ 5021. Rescheduling of Calendar.

Notwithstanding any other provision of this article, the Committee may, at any time, alter the competitiveness of Allocation Rounds, the number of Allocation Rounds, the portion of the State Ceiling that will be available to each type of State Ceiling Pool, or any Program within a Pool in each of the Allocation Rounds, the schedule of the Allocation Rounds and the deadlines for Applicants to submit Applications for consideration based on its finding, at a noticed meeting, that the changes are in the public interest and reasonably necessary to further the purposes for which the Committee was created.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.

§ 5022. Geographic Apportionments.

For the purpose of allocating bonds available under the QRRP New Construction Pool, annual apportionments of bonds shall be made in approximately the amounts shown below:

<u>Geographic Region</u>	<u>Apportionment</u>
<u>Coastal Region</u> <u>(Monterey, Orange, San Benito, San Diego San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura Counties)</u>	<u>20%</u>
<u>City of Los Angeles</u>	<u>17%</u>
<u>Balance of Los Angeles County</u>	<u>16%</u>
<u>Bay Area Region</u> <u>(Alameda, Contra Costa, San Francisco, San Mateo, and Santa Clara Counties)</u>	<u>21%</u>
<u>Inland Region</u> <u>(Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Bernardino, San Joaquin, Stanislaus, and Tulare Counties)</u>	<u>16%</u>
<u>Northern Region</u> <u>(Butte, El Dorado, Marin, Napa, Placer, Sacramento, Shasta, Solano, Sonoma, Sutter, Yuba, and Yolo Counties)</u>	<u>10%</u>

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 4. Application Schedule and Procedures

§ 5030. Announcement of Application Deadlines.

Pursuant to article 2 of this chapter, the Committee shall as soon as practical, after the start of the calendar year, give notice of the dates and deadlines to submit Applications for each Allocation Round and whether the Applications will be evaluated pursuant to an Open Application Process or a Competitive Application Process.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.

§ 5031. Eligible Applicants.

(a) The following types of entities may file an Application: Any state or local governmental agency, joint powers authority (JPA) applying for bond allocation for a Project that will be located entirely within the geographical boundaries of one or more of the JPA members (except for a Project described in Government Code section 6586.5(c)), special district, nonprofit public benefit corporation that issues

only student loan Bonds, or any other public agency that is empowered to issue debt. The Issuer of the Qualified Private Activity Bonds or Mortgage Credit Certificates must be the Applicant.

(b) Where the Applicant is administering a Single Family Housing Program on behalf of one or more jurisdictions, the Applicant must submit the Application to the Committee. The Applicant must also obtain, and provide to the Committee with its Application, a publicly adopted resolution or cooperative agreement from each jurisdiction participating in the Applicant's program that explicitly grant authority to the Applicant to conduct the program in the participant's jurisdiction.

(c) To be eligible to receive CDLAC allocation, all Applicants must submit written Bond Issuance and Post Issuance Compliance Policies for each State Ceiling Pool they request. For QRRP Applicants, these policies must be reviewed by counsel having expertise with the federal and state laws pertaining to the issuance or conversion and post-closing compliance of private activity conduit bonds for consistency with applicable federal and state laws. Such review will be documented via a letter from the respective counsel indicating the review has occurred. Additionally, for all Applicants, the policies must be accompanied by a resolution signed by the appropriate governing body formally adopting the policies. If the governing body has delegated approval authority on such matters to the organization's Executive Director, Housing Director or Finance Director, approval by the delegated individuals will suffice. To the extent contractors will be providing services on behalf of an Applicant, the policies should clarify the relationship between the contractor and the Applicant and what, if any, rights the contractor has to income and obligations generated from the issuance activity. CDLAC will review these policies to ensure the legal review has occurred, appropriate approval documentation is in place and for consistency with the CDLAC regulations. CDLAC will document their formal approval. This requirement will apply immediately to all Applicants who have not received allocation from CDLAC since January of 2013 and for new Applicants. Applicants having received an allocation of bonds from CDLAC after January 2013 will have until December 31st of 2017 to complete and submit policies to CDLAC. If an Applicant has not utilized CDLAC's programs but has a 2017 project pending, a one year waiver to this regulation may be requested. To fulfill this requirement, approval of the policies must be documented in a resolution dated no earlier than 2006. All policies must be reviewed and re-approved at least every 10 years thereafter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(f), 8869.84(g), 8869.85(a), 8869.85(b), 8869.88 and 8869.89, Government Code.

§ 5032. Applicant Responsibilities.

(a) Applications for an Allocation of the State Ceiling shall include the information prescribed by the Committee specific to the State Ceiling Pool or program to which the Application is addressed. All questions set forth in the applicable Application must be answered completely and accurately. Each Application must be accompanied by the required documentation prescribed therein.

(b) Every Applicant shall certify to the Committee that it is in compliance with all applicable statutes, laws, rules, and regulations necessary for the transaction of its business.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b) and 8869.87, Government Code.

§ 5033. Minimum Application Requirements.

(a) Applications for an Allocation of the State Ceiling may be submitted to the Committee at its offices in Sacramento, California. An Applicant must submit all required information appropriate to the type of Bond for which the Applicant requests an Allocation. The Applicant shall submit a complete Application and supplemental material for each project or program for which the Applicant is requesting an Allocation. Only complete Applications bearing the original signatures of an officer of the Applicant or designee and the Project Sponsor, if applicable, will be accepted.

(b) Unless specifically exempted, the following items must accompany all Applications:

(1) Performance Deposit Certification and evidence of the performance deposit as provided in section 5050(a), except that for Qualified Residential Rental Projects, an Applicant shall provide the certification and evidence within 20 calendar days following an award of an Allocation.

(2) A non-refundable first installment of the filing fee of \$1,200 made payable to the California Debt Limit Allocation Committee as provided in section 5054(a).

(3) Proof of the bond sale structure requirements pursuant to article 6 of this chapter, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to chapter 3.

(4) An inducement or reimbursement resolution adopted by the governing body of the Applicant approving the project or program to be Bond financed and authorizing a senior officer, or in the case of a Student Loan Program, an officer of the sponsor of the Student Loan Program, to file the Application with the Committee, pay any fees required by the Committee, and certify the posting of the required performance deposit, unless excepted herein.

~~(5) For all Applications other than those relating to a Mortgage Credit Certificate Program pursuant to chapter 3, or a Recovery Zone Economic Development Bond Project, the following shall be provided to the Committee no less than four (4) calendar days prior to the first public posting of Committee recommendations as provided in section 5035 of the CDLAC Regulations:~~

~~(A) proof of public notice of the TEFRA hearing; and~~

~~(B) a copy of the fully executed TEFRA Resolution adopted by the governing body of the jurisdiction in which the proposed project or program will be located or, in the case of a Student Loan Program, a resolution adopted by the sponsor of the Student Loan Program memorializing the public approval process as required by 26 U.S.C. section 147(f). The resolution shall clearly indicate that a public hearing was properly noticed and held with respect to the proposed issuance of Bonds. Such resolutions shall be accompanied by the approval of the Bonds for the specific project or program by the applicable elected representative as such term is defined in 26 U.S.C. section 147(f)(2)(E).~~

~~(C) In the event that a fully executed copy of an adopted TEFRA Resolution cannot be provided within the timeframe set forth in subdivision (b)(5) of this section, the Applicant shall provide:~~

~~1. within the timeframe set forth in subdivision (b)(5) of this section, written certification of the date, time, location, and outcome of the public hearing, the approval of the issuance of Bonds by the applicable elected representative, and that the actions comply with the provisions of 26 U.S.C. section 147(f); and~~

~~2. no less than twenty-four (24) hours prior to the scheduled commencement of the Committee meeting at which the project is seeking an allocation, a copy of the fully executed adopted TEFRA Resolution.~~

~~(D) In the event that a TEFRA Resolution for a proposed project or program is to be signed by a member of the Committee, the Applicant may submit:~~

~~1. no less than four (4) calendar days prior to the first public posting of Committee recommendations as provided in section 5035 of the CDLAC Regulations, the minutes of the required public hearing and proof of publication of the notice announcing the public TEFRA hearing; and~~

~~2. no later than the date on which a Report of Action Taken must be submitted, as required by section 5142 of the CDLAC Regulations, a fully executed copy of the adopted TEFRA Resolution.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(a), 8869.85(b) and 8869.90, Government Code.

§ 5034. Ranking.

Applications submitted under a Competitive Application Process will be ranked according to the number of points awarded by the Committee pursuant to the evaluation criteria specific to the State Ceiling Pool or program to which the Application is addressed.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(d) and 8869.84(e), Government Code.

§ 5035. Preliminary Recommendations.

~~(a) At least twenty-five (25) calendar days prior to any meeting at which the Committee will award Allocations, the Executive Director will post a preliminary list of Applicants for which the Executive Director expects to recommend an Allocation (and the amount of those Allocations). During competitive rounds, information gathered from the QRRP Self-Scoring Worksheet will be in ranked order. CDLAC will post all reported self-scoring totals on the Committee's website as provided in section 5140 the following procedures will be followed for the Qualified Residential Rental Program:~~

1. Within ten (10) calendar days after the application due date, CDLAC will post a list of applicants, project names, project locations, selected pools and set-asides, geographic regions, and requested Allocations and all reported self-scoring totals and tie-breaker score on the Committee's website as provided in section 5140.

2. CDLAC will prepare rank ordering of the list of projects and evaluate the requested scoring based on information submitted in the application. CDLAC will only review those projects that are substantially complete, financially feasible and appear to score high enough to receive an Allocation. Prior to publishing the preliminary recommendation list on its website, CDLAC shall notify Applicants and the developers/sponsors of their preliminary score and the reasons for any modifications from the Applicant's Self-Scoring Worksheet. Such notice, or a subsequent notice, may also contain completeness and/or feasibility defects determined during CDLAC's evaluation. CDLAC will only be required to send notices for projects that may appear to score high enough to receive an Allocation. Applicants will have five (5) calendar days to appeal their scores and/or completeness/feasibility defects, which appeals must be addressed to the Executive Director in writing per the instructions contained in the notice. The Executive Director shall then have ten (10) calendar days to issue a final determination. If an Applicant is unsatisfied with the final determination, the Applicant may appeal to the Committee per the instructions in the final determination notice.

3. The process specified in paragraph 2 above shall be used to produce a list of Applicants for which the Executive Director expects to recommend an Allocation, subject to any pending appeals that may be heard by the Committee.

~~(b) For the Qualified Residential Rental Program, the list will identify the points earned by each Applicant in all categories for which points are awarded, including the Applicant's aggregate total points.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5036. Appeals to Preliminary Recommendations.

Any Applicant who wishes to appeal the preliminary recommendation or ranking as prescribed in section 5035 may file an appeal within five (5) business days of the date on which the preliminary list is posted. The appeal must set forth in reasonable detail the factual basis for the appeal. No new or additional information beyond that provided in the original Application may be provided to or considered in connection with the appeal. All appeals shall be made in writing and delivered to the ~~Committee-Executive Director~~, no later than 5:00 p.m. (Pacific Time) on the last day specified for filing an appeal. The Executive Director will present the appeal to the Committee at the meeting for which Allocations will be awarded, prior to the Allocation approval process. An Applicant may only appeal the recommendation or ranking of its own Application(s). ~~Each Applicant who has submitted an appeal will be notified of the decision on the appeal pursuant to section 5037.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5037. Final Recommendations.

(a) At least ten (10) calendar days before the Committee meeting for which Allocations will be awarded, the final list of Applicants for which Allocations will be recommended (and the amounts of those

Allocations) will be posted. During competitive rounds, the list will be in ranked order. This list will reflect changes, if any, in ranking resulting from the appeals as provided in section ~~5036~~ 5035. The list shall be posted on the Committee's website as provided in section 5140.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5038. Appeals to Final Recommendations.

Any Applicant who timely appealed the preliminary determination and is dissatisfied with the final recommendation in connection with the Application or received no preliminary recommendation, may present its case to the Committee at the Allocation meeting at which the Application is considered, provided that the Applicant gives notice, in writing, of its intention to do so at least five (5) business days prior to the Allocation meeting. An Applicant's written notification must be delivered to the Committee, no later than 5:00 p.m. (Pacific Time) on the last day specified for providing notice.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5039. Publishing of Agenda.

At least ten (10) calendar days before all Committee meetings, the Executive Director shall post an agenda of all items to be heard by the Committee, on the Committee's website provided in section 5140.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 5. Performance Deposits and Fees

§ 5050. Performance Deposit Requirements.

(a) Applications for Qualified Private Activity Bonds shall include evidence of a performance deposit equal to one-half of one percent (.5%) of the Allocation requested, not to exceed \$100,000 made payable to the Applicant, except that for Qualified Residential Rental Projects, an Applicant shall provide the evidence of a performance deposit within 20 calendar days following an award of an Allocation. Such evidence may include, but is not limited to a copy of a check, a letter of credit from a Commercial Bank with an A category or higher credit rating naming CDLAC as the beneficiary, certified funds or in the case where the Application is for a Single Family Housing Program, a copy of a general ledger statement evidencing that funds have been reserved for this purpose, and a fully executed Performance Deposit Certification that certifies the required deposit has been made and is being held by the Applicant on the behalf of the Committee.

~~(b) Applicants must maintain the performance deposit until a written release is received from the Committee.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.

§ 5051. Release of Performance Deposit.

(a) The written authorization releasing a performance deposit or refund of deposits paid to the Committee will occur upon the Committee's receipt of a properly completed Report of Action Taken that is appropriate to the transaction type as required in section 5142, all filing fees as required in section 5054, and a digital copy of the conformed, recorded Bond Regulatory Agreement. The Committee Resolution shall provide the timeframe for using the Allocation and filing the required Report of Action Taken.

(b) In the case of a Qualified Residential Rental Project that also requests an allocation of state credit reserved for tax-exempt projects from the California Tax Credit Allocation Committee (CTCAC), the full release or refund of a performance deposit will be authorized if the Project Sponsor is able to demonstrate that the failure to use Allocation is solely due to the failure to receive an allocation of state tax credit.

(c) In the case of Mortgage Credit Certificates, the full release or refund of a deposit will not be authorized unless the Allocation has been converted to Mortgage Credit Certificate authority by the date specified in the Committee Resolution.

(d) Nothing in this section shall be construed to address the forfeiture of deposit relative to utilization of carryforward Allocations pursuant to section 5132.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.90, Government Code.

§ 5052. Forfeiture of Performance Deposit.

(a) For Projects receiving an allocation award on or after March 16, 2016, an extension of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132 will result in forfeiture of the Project's performance deposit to the extent that the performance deposit has not previously been forfeited.

(b) If less than 80% of the Allocation is used to issue Bonds, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the amount of awarded Allocation. If at least one (1) Mortgage Credit Certificate is not issued prior to the applicable expiration date, the entire performance deposit will be forfeited. If 80% or more of the Allocation is used to issue bonds prior to the expiration date, or at least one (1) Mortgage Credit Certificate is issued prior to the applicable expiration date, a full refund of the performance deposit will be authorized.

(c) Applicants bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and/or timeframes set forth in the Committee Resolution.

(d) The Applicant shall remit all forfeited performance deposits to the Committee within thirty (30) days of receipt of an invoice issued by the Committee.

(e) An Applicant may request waiver of a performance deposit forfeiture by submitting a written request to the Executive Director within 30 days of the date of the Committee's Forfeiture Fee Invoice. The Committee shall grant a forfeiture ~~waiver-extension~~ upon a showing that the ~~circumstances-request~~ aligns with an extended allocation and waiver upon showing the circumstances prompting the forfeiture

were unforeseen and entirely beyond the control of the Project's sponsor and development team. The granting of a waiver pursuant to this subsection will not preclude performance deposit forfeiture for subsequent extensions of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132.

(f) If the awarded project is from a joint CDLAC/CTCAC application and not awarded State Tax Credits, and therefore is unable to fill the financing gap, the issuer may return the allocation to the Committee within 90 days after notice of failure to obtain State Tax Credits without forfeiture of the performance deposit or assessment of negative points.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.86(c)(3), Government Code.

§ 5053. Withdrawn or Denied Applications.

For Applicants that post the performance deposit prior to award of an Allocation, if ~~if~~ the Applicant withdraws an Application prior to consideration by the Committee or if a Project fails to receive an award of Allocation, the performance deposit shall be automatically refunded or released with and no written authorization from the Committee shall be necessary. Applicants that receive an Allocation may also return the Allocation to the Committee within twenty (20) days of the award date without threat of negative points.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.

§ 5054. Filing Fees.

Each Applicant shall submit a filing fee in an amount equal to the product of the amount of Allocation actually used to issue Bonds, or Mortgage Credit Certificates multiplied by .00035. The payment of the fee shall be in two installments as follows:

- (a) Initial filing fee. A check in the amount of \$1,200 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.
- (b) Initial filing fee for supplemental awards. A check in the amount of \$600 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.
- (c) Second installment of Filing Fee. The second installment of the filing fee will be due within thirty (30) days after Bond issuance or issuance of the first Mortgage Credit Certificate. The Committee will issue an invoice in conjunction with the Committee Resolution transferring the Allocation to the Applicant. The amount of the second installment of the filing fee is the product of the amount of Allocation used to issue Bonds or convert to Bond to Mortgage Credit Certificate authority multiplied by .00035, less the fee paid pursuant to subdivision (a) of this section.

(d) If the second filing fee is not received within thirty (30) days, the Committee shall instruct the Applicant to remit the amount due from the performance deposit maintained by the Applicant specifically for the Project or program that was awarded Allocation pursuant to section 5050.

(e) Applications for Allocation for Exempt Facility Projects will not be charged supplemental filing fees when applicants seek to move the hearing date for allocation later in the calendar year, as long as there are not material changes in the project or financing structure of the application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.90, Government Code.

Article 6. Bond Sale Structure Requirements

§ 5060. Minimum Requirements.

(a) Applicants, other than Applicants for a Mortgage Credit Certificate Program, shall provide evidence of a plan to privately place or publicly sell the proposed Bonds with or without Credit Enhancement for an amount no less than the amount requested in the Application. All relevant bond documents for Qualified Residential Rental Projects must permit principal payments or prepayments on the underlying loan(s) as transferred proceeds in a bond preservation and recycling program as permitted by 26 U.S.C. Section 146(i)(6) and shall require no less than thirty (30) days' notice to CDLAC and to the applicant prior to the redemption of bonds at the conversion to permanent financing. Bond sale structures that include a credit rating shall be subject to the following:

(1) Governmental Bond issued with full recourse to, or guaranteed by a general obligation of a governmental entity with taxing authority or Qualified Private Activity Bonds with recourse to the corporate parent entity of the Project Sponsor via a corporate guarantee must have an investment grade credit rating for the Project or the source of the aforementioned guarantee for the Project.

(2) Qualified Private Activity Bonds without a governmental or corporate guarantee shall provide a credit rating specifically for the transaction.

(3) Governmental Bond issues with limited recourse (i.e. lease revenue Bonds, project-specific recourse, or certificates of participation) may provide either a credit rating specifically for the transaction or provide evidence of a current credit rating for an existing outstanding Bond with the same source of debt repayment.

(4) All Bond ratings shall include evidence that the credit rating has been provided within the last six (6) months, or that the current credit rating for outstanding Bond(s) has been substantiated via the most recent updated surveillance review completed by a rating agency within the last thirty six (36) months.

(b) Applicants requesting an award of Allocation for pollution control projects administered by the California Pollution Control Financing Authority (CPCFA) should refer to CPCFA regulations for additional requirements.

(c) Notwithstanding the requirements set forth in article 6 of this chapter, the Committee may apply more stringent requirements and thresholds for a given Project based upon factors such as, but not limited to the size of the Bond issue and/or the specific ratings of the Applicant and/or Project Sponsor.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5061. Credit Enhanced Sales.

(a) Applications for Bonds to be issued and sold through a public sale with Credit Enhancement will be deemed to have provided satisfactory evidence of a Bond sale plan required in section 5060 if documentation from the Credit Enhancer includes the following:

- (1) Project Sponsor (borrower).
- (2) Project name and location.
- (3) Amount of the Credit Enhancement.
- (4) Salient terms and conditions of the agreement, including but not limited to the fee structure, term, rate, security, collateral, guarantee, and recourse of the commitment.
- (5) Evidence that the Credit Enhancer is committed to move forward with the transaction if the terms and conditions in the commitment letter are met.
- (6) Acceptance of the terms and conditions of the Credit Enhancement by the Credit Enhancer and Project Sponsor evidenced by signatures from both parties.
- (7) If Fannie Mae, (a private, shareholder-owned company with a charter from Congress requiring the company to support the housing finance system) or any additional or successor entity possessing a similar Congressional charter is providing the Credit Enhancement, the commitment issued by a qualified lender under the Delegated Underwriting and Servicing (DUS) program of Fannie Mae will constitute acceptable proof of Credit Enhancement.

(b) If the Bonds are to be variable rate Bonds, the short term rating shall be no less than “A1” by Standard & Poor's, “VMIG1” by Moody's, or “F-1” by Fitch IBCA, Inc. or the equivalent.

(c) If the Bonds are to be fixed rate Bonds, the Bond rating shall be no less than an “A” category or the equivalent as rated by a Nationally Recognized Statistical Rating Organization. If the Bond rating is below an “A” category or the equivalent, the Application will be evaluated pursuant to section 5065.

(d) If any State Agency is providing the Credit Enhancement, evidence of its investment grade rating shall be provided with the Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5062. Private Placement Sales.

(a) Subject to Section (b) below, applications for Bonds to be issued and sold through a private placement will be deemed to have provided satisfactory evidence of a Bond sale plan required in section 5060 if documentation from the Bond purchaser(s) includes the following:

- (1) Project Sponsor (borrower).
- (2) Project name and location.
- (3) Bond purchase amount.
- (4) Salient terms and conditions, including but not limited to the fee structure, term, rate, security, collateral, guarantee, and recourse of the commitment including the interest rate of the agreement.
- (5) Evidence that the lender is committed to move forward with the transaction if the terms and conditions in the commitment letter are met.
- ~~(6) Acceptance of the terms and conditions of the commitment letter by the purchaser and Project Sponsor.~~

(b) For applications submitted after December 31, 2016 Cash Flow Permanent Bonds to be issued and sold through a private placement including, without limitation, bonds purchased by a property seller in consideration of the provisions of a purchase and sale agreement, will be deemed to have provided satisfactory evidence if the provisions of 5062 (a) have been satisfied and, additionally, if at the time of bond issuance the bond purchaser elects to:

- (1) submit a Traveling Investment Representation Letter from a Qualified Institutional Buyer or Sophisticated Investor due three (3) days prior to Bond issuance; or
- (2) ensure a minimum Bond denomination of \$100,000.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5063. Unenhanced Bond Sales with an A Category or Higher Rating Including Sales Where Cash is the Collateral.

(a) Applications for Bonds to be issued with an unenhanced credit rating equivalent to an “A” category or higher as rated by a Nationally Recognized Statistical Rating Organization will be deemed to have satisfied the minimum Bond sale requirements required in section 5060 if the following is provided:

- (1) Placement Agent Statement.
- (2) Certifications of no current Bond Defaults by the Issuer, guarantor (if any) and the Project Sponsor (if any).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5064. Unenhanced Bond Sales with a BBB Category Credit Rating.

(a) Applications for Bonds to be issued with an unenhanced credit rating in the “BBB” category or equivalent as rated by a Nationally Recognized Statistical Rating Organization will be deemed to have satisfied the minimum Bond sale requirements required in section 5060 if the following is provided:

- (1) Placement Agent Statement.
- (2) Certifications of no current Bond Defaults by the Issuer, guarantor (if any) and the Project Sponsor (if any).
- (3) Brief summary of the marketing plan.

(b) In addition to the requirements of subdivision (a) of this section, awards of Allocation will be subject to the following conditions:

- (1) Governmental Bond issues with full recourse to, or guaranteed by a general obligation of a governmental entity with taxing authority will be subject to minimum denominations of \$5,000.
- (2) Governmental Bond issues with limited recourse and all Qualified Private Activity Bonds will be required to have either of the following:
 - (A) The submission of an Investment Representation Letter from a Qualified Institutional Buyer or Sophisticated Investor due at Bond issuance; or
 - (B) Minimum Bond denominations of \$100,000.
 - (C) Applicants will state in both the Application and the marketing plan whether they favor a CDLAC award with an Investment Representation Letter requirement or with the minimum denomination requirement. The marketing plan's stated issuance structure and offering summary must reflect the Applicant's preference.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5065. Unenhanced Sales with Unrated or Non-Investment Grade Credit Rating.

(a) Applications for Bonds to be issued with unrated or unenhanced non-investment grade credit ratings will be permitted only for limited recourse Government Bond issues and Qualified Private Activity Bonds and will be deemed to have satisfied the minimum Bond sale requirements required in section 5060 if the following is provided:

- (1) Placement Agent Statement.

(2) Certifications of no current Bond Defaults by the Issuer, guarantor (if any) and the Project Sponsor (if any).

(3) Complete marketing plan.

(b) In addition to the requirements of subdivision (a) of this section, awards of Allocation will be subject to the following conditions:

(1) The submission of a Traveling Investment Representation Letter due three (3) business days before issuance; or

(2) Minimum Bond denominations as follows:

(A) \$100,000 for Bond issues equal to or less than \$100,000,000; or

(B) \$250,000 for Bond issues over \$100,000,000.

(3) Applicants will state in both the Application and marketing plan whether they favor a CDLAC award with a Traveling Investment Representation Letter requirement or with the minimum denomination requirement. The marketing plan's stated issuance structure and offering summary must reflect the Applicant's preference.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5066. Qualifying Bond Defaults.

(a) Bond Applications on behalf of a Project Sponsor with a Qualifying Bond Default or bankruptcy in the last three (3) years, and/or from a Bond Issuer with three (3) or more Qualifying Bond Defaults in the last five (5) years shall be restricted to private placement sales accompanied with an Investment Representation Letter or public sales with a minimum A category credit grade. Governmental Bond Applications on behalf of a governmental guarantor with a Qualifying Bond Default or bankruptcy within the last three (3) years shall be restricted to private placements with Qualified Institutional Buyers or to public sales rated A or higher.

(b) Bond Issuers and Project Sponsors who are subject to these restrictions may submit an appeal for a waiver of this requirement which shall be considered by the Committee. For Issuers, appeals which involve the following circumstances may be considered by the Executive Director:

(1) At least two (2) out of the three (3) Qualifying Bond Defaults referenced involve the same Project Sponsor; or

(2) At least two (2) out of the three (3) Qualifying Bond Defaults referenced involve transactions whose bond issuance occurred more than ten (10) years prior to the default recordation date.

(c) All appeals shall be made in writing, included with the Application and must set forth in reasonable detail the factual basis for the appeal.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 7. Committee Resolution; Use of State Ceiling Allocations

§ 5080. Granting of Allocation.

The granting of an Allocation by the Committee shall be memorialized in a written resolution adopted by the Committee. The Committee Resolution shall specify but not be limited to the following: the Applicant, the amount of the Allocation, the project or program name for which the Allocation has been provided, the Project Sponsor using the Bond proceeds where applicable, the location of the project or program, the expiration of date of the Allocation, and any additional conditions or restrictions imposed on the Allocation by the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5081. Changes in Use of Allocation.

Use of an Allocation shall be limited by the provisions of the Committee Resolution. Any changes to the specifications contained in the Committee Resolution prior to the issuance of Bonds, including, but not limited to, changes to the Bond sale structure, the provider of any Credit Enhancement, the direct purchaser of the Bonds if a private placement of Bonds is indicated, the entity selling Bonds, or the identity of the Applicant, must be approved by the Committee prior to the Bond issuance. The Committee may delegate the authority to approve these changes to the Committee Chair or to the Executive Director. The Executive Director may administratively approve routine and non-substantive changes that do not require additional Allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5082. Certification of Bond Issuance.

Following the Committee's receipt of a Report of Action Taken as provided in section 5142, the State Treasurer or his or her designee shall provide the Applicant with a letter certifying that the Bond issue meets the requirements of 26 U.S.C. section 146. For Mortgage Credit Certificate Applicants, this certification letter shall be provided the time that the Committee Resolution is transmitted.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.83(b), 8869.84(c), 8869.86(c) and 8869.93 Government Code.

Article 8. Expiration of Allocations

§ 5100. Program Expiration Dates.

(a) The expiration date of the Allocation shall be specified in the Committee Resolution and shall start from the date on which the Committee awards the Allocation.

(b) Notwithstanding extensions as provided in sections 5101 or 5103; the limitations prescribed by section 5104; or Allocations awarded on a carry-forward basis as provided in section 5131; the expiration dates for issuing Bonds or converting Bonds to Mortgage Credit Certificate authority shall be:

(1) ~~Ninety (90)~~ One-Hundred Eighty (180) days for the issuance of Beginning Farmer Bonds, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, Exempt Facility Bonds, Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, Qualified Public Educational Facility Bonds and the conversion of Bonds to Mortgage Credit Certificate authority.

(2) One-hundred twenty (120) days for the issuance of Student Loan Bonds and for the issuance of at least one (1) Mortgage Credit Certificate.

(3) For Qualified Residential Rental Project Bonds, the following expiration dates shall be assigned randomly by a lottery drawing conducted by the Executive Director within five (5) business days following each Allocation Round:

~~(i) Projects receiving an allocation during a Competitive Allocation Process shall be assigned an expiration date of ninety (90) days, one hundred (100) days, or one hundred ten (110) days.~~

~~(ii)~~ Projects receiving an allocation ~~during an Open Application Process~~ shall be assigned an expiration date of one-hundred eighty (180) days or one-hundred ninety-four (194) days.

~~(iii)~~ (ii) A project's applicant may request an expiration date of less than one-hundred eighty (180) days by submitting a written request to the Executive Director. The request shall be submitted no later than the final posting date for the round in which the project is seeking an allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

§ 5101. Extensions to Expiration Dates.

~~Excluding Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, and Mortgage Credit Certificates, for~~ For Allocations awarded during an Open Application Process, the Executive Director may grant extensions of up to ninety (90) days.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

~~§ 5102. Recovery Zone Bond Extensions.~~

~~The Committee may extend the expiration date for the issuance of Recovery Zone Facility Bonds or Recovery Zone Economic Development Bonds by an additional thirty (30) days. The Committee may delegate this authority to the Executive Director.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.~~

§ 5103. Five Day Hardship Extensions.

The Committee may grant an extension to the expiration dates provided in sections 5100 and ~~5101, 5101, and 5102~~ up to five (5) additional business days for extreme hardship cases. The Committee may delegate this authority to the Executive Director.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

§ 5104. Year-End Allocations.

Unless the Committee authorizes the carry-forward of an Allocation pursuant to article 10 of this chapter, the expiration date of all Allocations shall be no later than December 31 of the same calendar year pursuant to 26 U.S.C. section 146(d), which defines the State Ceiling. The pending year-end expiration may result in the assignment of expiration dates shorter than as prescribed in section 5100.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

§ 5105. Reversion to Committee.

Upon expiration of an Allocation, any amount of the Allocation that has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate authority will automatically revert to the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.89, Government Code.

§ 5106. State Single Family Programs.

Carryforward Allocations made pursuant to article 10 of this chapter to a Veterans Home Loan Program or a CalHFA Single Family Program are not subject to expiration except as set forth in 26 U.S.C section 146(f)(3).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.

§ 5107. Veterans Home Loan Programs. [Renumbered]

Article 9. Transfers of Allocation

§ 5120. Transfer Requirements.

(a) Except for the reversion of unused Allocation pursuant to section 5106, Allocations are not transferable unless expressly authorized in writing by the Committee. The Committee may permit transfers of Allocation as follows:

(1) The Committee may permit transfers of carryforward Allocations to the highest scoring Application on a waiting list or, if a waiting list does not exist, the highest scoring Project in queue in a current Allocation Round.

(2) The Committee may permit transfers of Allocation between Applicants for the same Project. Prior to the transfer of an Allocation between Applicants for the same Project, the new Applicant must demonstrate that both the Minimum Application Requirements outlined in Section 5033 and the specified program threshold requirements have been met prior to the Committee's approval of the transfer.

(b) Where the Applicant is administering a Single Family Housing Program for itself and other participating jurisdictions, the use of Allocation within the participating jurisdictions listed in the Committee Resolution is not considered a transfer. For purposes of this subdivision, participating jurisdictions means those entities that have provided written assignment of their rights to secure an Allocation to the Applicant. The Applicant shall submit copies of the assignments with the Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.85(c), 8869.85(d) and 8869.86(a)(3), Government Code.

Article 10. Carry-Forward Allocations

§ 5130. Prohibitions.

An Applicant receiving an Allocation may not carryforward the Allocation to a subsequent calendar year unless expressly authorized in writing by the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.85(c), Government Code.

§ 5131. Granting of Carryforward Allocations.

The Committee may award Allocation on a carryforward basis for the purpose of providing sufficient time for Applicants to issue Bonds under the current year's State Ceiling and/or to ensure all remaining portions of the State Ceiling are issued.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.85(c) and 8869.86(a)(3), Government Code

§ 5132. Expiration of Carryforward Allocations.

The Committee will specify the expiration date of the carryforward Allocation in the Committee Resolution memorializing the grant of the Allocation. If any amount of the carryforward Allocation has not been used to issue Bonds or convert Bonds to Mortgage Credit Certificate Authority on or before the expiration date, the performance deposit will be forfeited to the Committee and the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer in accordance with section 5120. If the Committee does not require a transfer of the carryforward Allocation, the expiration date may be extended with the approval of the Executive Director until the Allocation expires pursuant to 26 U.S.C. section 146(f)(3) or to each subsequent deadline for submitting Applications to the Committee. At that time, the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(c) and 8869.86(a)(3), Government Code.

§ 5133. Use of Carryforward.

Pursuant to Section 5231, CDLAC shall establish a rank-order list of all projects to be allocated during a competitive round. CDLAC shall determine if the issuers for such projects that are scheduled to receive an allocation are in possession of any carry-forward allocation not otherwise reserved for a project that has received an allocation but has not issued bonds, and if such a condition exists, such carry-forward shall be subscribed to the projects in rank order which are scheduled to be awarded an allocation in the current round, starting with the highest ranking project. The issuer's carryforward shall be applied to all projects recommended for an allocation until exhausted. Any carry-forward amounts allocated to a project shall not be considered when determining the amount available in a pool, set-aside or geographic region. The limitations in the preceding sentence shall not apply to the waiting list procedures specified in Section 5231(e)(4).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(c) and 8869.86(a)(3), Government Code.

Article 11. Reporting and Compliance Requirements

§ 5140. Contact Information.

All reports required in this article shall be transmitted to the Committee at the address, e-mail or fax number listed on the Committee's website, www.treasurer.ca.gov/cdlac.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5141. Notification of Bond Issue.

Within twenty-four (24) hours of using the Allocation to issue Bonds or to convert Bond authority to Mortgage Credit Certificate authority, an Applicant or its counsel shall notify the Committee of such use of the Allocation via the e-mail address or facsimile number as provided in section 5140. The notification shall identify the Applicant, the Project or program, the date the Allocation was used, and the amount of the Allocation used. For Qualified Residential Rental Projects, the notification shall also provide the estimated date of conversion to permanent financing and confirmation that the bond documents meet the requirements set forth in section 5060.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.86(c), Government Code.

§ 5142. Report of Action Taken.

Within fifteen (15) calendar days of the first Bond closing, conversion of Bonds to Mortgage Credit Certificate authority, or issuance of the first Mortgage Credit Certificate, an Applicant or its counsel shall transmit to the Committee information regarding the issuance of Bonds or the conversion of Bonds to Mortgage Credit Certificate authority by submitting the appropriate Report of Action Taken to the address as provided in section 5140.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.86(c), Government Code.

§ 5143. Notification of Carryforward Election.

Applicants awarded Allocation on a carryforward basis as prescribed in section 5131 shall transmit to the Committee, via the address provided in section 5140, the documents provided to the Internal Revenue Service reporting the carryforward election no later than February 1st of the year immediately following the year in which the Allocation was awarded.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.86(c), Government Code.

§ 5144. Annual Applicant Public Benefits and On-Going Compliance Self Certification.

(a) All Projects that receive an Allocation and are within an existing regulatory period and/or compliance period shall be monitored for compliance with the applicable terms and conditions of the Committee Resolution by the Applicant (Issuer) and CDLAC. The new Issuer takes responsibility of reporting on projects that have resyndicated after Year 15. Upon request, CDLAC will review and approve a termination of the original bond regulatory agreement with the requirement that the new agreement include affordability requirements that are at least as restrictive as those in the original agreement.

(b) The self-certification must be submitted by the Applicant to CDLAC no later than March 1 of each year (or at such other time as requested by the Committee). The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy affecting the Applicant including but not limited to disqualification from the program.

(1) For Projects receiving an Allocation prior to December 31, 2016, the Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification, via the online compliance certification system annually for the longer of the period the bonds remain outstanding or the period of restriction for QRRP projects outlined in Section 5192.

(2) For Projects receiving allocation after December 31, 2016, the Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification via the online compliance certification system every year until the completion of the project and then if the project is subject to a Regulatory Period and/or Compliance Period every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period.

(c) For all QRRP projects receiving allocations after December 31, 2016, Sponsors will be required to utilize TCAC's Compliance Manual specifically Section ~~IV~~ IV: Qualify Tenants for Low Income Housing Tax Credit Units, to verify tenant income in conjunction with initial occupancy. No less than every three years after the project is completed, the Sponsor must collect and retain the following income and verification documentation related to all the Federally Bond-Restricted units identified in the Committee Resolution or Restricted Rental Units as defined in Section 5000: TCAC Tax Income Calculation (TIC) or equivalent documentation, all associated source income documentation, and evidence of the verifying income computation. Additionally Project Sponsors will be required to prepare and forward a TCAC Project Status Report (PSR) or equivalent documentation to the Applicant annually in conjunction with the Annual Applicant Public Benefits and On-going Compliance Self Certification. Sponsors must retain information pertaining to the income verification process for 10 years.

(d) For all QRRP projects receiving allocation after December 31, 2016, compliance with the income and rental requirements of the Federally Bond-Restricted Units identified in the Committee Resolution and the Bond Regulatory Agreement must be demonstrated by the Applicants initial review of 20% of all management files associated with the Federally Bond-Restricted units and subsequent review every three years of 20% of all management files associated with the Federally Bond-Restricted units. Federally Bond-Restricted units will include a distribution of unit locations, sizes and income levels (if applicable) and must be identified in the PSR. For this 20% of files, Applicants must review each initial or subsequent occupant/s and their associated TIC in conjunction with the supporting income verification documentation of each occupant's initial occupancy and make a determination if the project

is complying with the income and affordability standards. Additionally, Applicants must ensure a lease is in place and executed. This review may be performed on-site or may be performed through an electronic file audit. Completion of this task in addition to a valid Certification of Compliance II or equivalent form will provide Issuers with the ability to report annually to CDLAC regarding compliance with the Federally Bond-Restricted unit restrictions. Information pertaining to the income verification process will be kept on file for 10 years. Applicants must retain documentation memorializing review and determination of income eligibility for 10 years. Source income documentation must be retained for 1 year. These guidelines rely on the compliance monitoring process and procedures in place for TCAC. To the extent TCAC is to alter their compliance policies and procedures, these guidelines shall be reviewed by CDLAC for consistency and changes made where appropriate.

(e) For all QRRP projects receiving allocation after December 31, 2016, Sponsors requesting an allocation of bonds absent the receipt of a TCAC reservation will be identified at the time of application and will have the following compliance options which will be represented in the Committee Resolution:

(1) Applicants that can demonstrate to the Executive Director's satisfaction experience and current capacity to conduct on-site physical and file inspections through their Compliance Policies will be required to conduct the 20% review of the Federally Bond-Restricted units files on-site and perform a site inspection consistent with their Bond Compliance Policy every 3 years after the Qualified Project Period has commenced.

(2) Applicants that cannot demonstrate to the Executive Director's satisfaction capacity to conduct on-site physical and file inspections through their Compliance Policies will be required to enter into an agreement with a private third party compliance firm, approved by CDLAC, who must conduct the 20% review of Federally Bond-Restricted units files on-site and perform a site inspection consistent with their current policies and procedures every 3 years after the Qualified Project Period has commenced.

(3) A Sponsor can enter into contract with CDLAC or a designee to monitor the Federally Bond-Restricted units for consistency with the bond regulatory agreement and the Committee Resolution. The charge for this service will be equivalent to the compliance fee charged by TCAC at the time the project submits their application to CDLAC.

(4) The election of the option will be included in the Committee Resolution.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b) and 8869.86(c), Government Code.

§ 5145. Certification of Compliance.

(a) All QRRP Projects receiving an Allocation prior to December 31, 2016 shall be monitored for compliance with the applicable terms and conditions of the Committee Resolution by the Applicant and CDLAC for the longer of the period the bonds remain outstanding or the period of restriction outlined in Section 5192. MCC awards will be monitored until the allocation has been utilized. The Applicant shall annually collect from the Project Sponsor and retain for QRRP projects a Certification of Compliance I as attached to the Committee Resolution.

(b) For all Projects that receive allocation after December 31, 2016 and subject to a Regulatory Period and/or Compliance Period, the Applicant shall collect from the Project Sponsor and retain the applicable QRRP or Non-QRRP Certification of Compliance II as attached in the Committee Resolution or other comparable form outlined in an Applicant's approved Bond Compliance Policies. The QRRP or Non-QRRP Certification of Compliance II will be submitted annually to the Applicant until the Project is completed and then if the project is subject to a Regulatory Period and/or Compliance Period, every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period. Additionally, Applicants shall collect from the Project Sponsor and retain the applicable QRRP or Non-QRRP Certificate of Completion as provided in the Committee Resolution or other comparable form outlined in an Applicant's approved Bond Compliance Policies. In both instances, the certification must be submitted by the Project Sponsor. The Applicant will then provide confirmation of receipt to the California Debt Limit Allocation Committee no later than March 1 of each applicable year (or at such other time as requested by the Committee) via the online compliance certification system. These requirements shall be enforceable by the Committee through an action for specific performance or other available remedy against the Project Sponsor.

(c) All QRRP Projects that receive Allocation and an award of low income housing tax credits shall be monitored by the Committee or an entity acting on its behalf for compliance with the terms and conditions of the Committee Resolution, and shall be subject to the provisions of section 10337 of Title 4 of the California Code of Regulations.

(d) All Non-QRRP Applicants must designate CDLAC, for the life of the bonds, to receive notice of changes in use and circumstances of Bond Default and Qualifying Bond Default.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5146. Disqualification.

The Committee may disqualify an Application for a portion of the Pool if any of the following have been documented about the Project Issuer, Project Sponsor or any entity that is a Related Party of the Project Sponsor:

(a) Significant outstanding non-compliance in matters relating to the annual Certification of Compliance I or Certification of Compliance II, Certificate of Completion, tenant files or physical conditions at any tax-exempt Bond or low income housing tax credit financed property in California. Requests to excuse properties monitored by the Committee or an entity acting on its behalf and owned by the Project Sponsor or any entity that is a Related Party of the Project Sponsor or management company will not be considered until the Committee has received documentation that the outstanding non-compliance matters have been resolved;

(b) Multiple or repeated failures to use committed public subsidies or private activity Bond allocations within applicable deadlines, or to provide committed physical amenities or services;

(c) Providing false information in connection with an Application; or

(d) Information that leads the Committee to reasonably and in good faith conclude that an allocation will be inimical to, or incompatible with, the purposes of these regulations or the laws regulating the allocation of the State Ceiling on Qualified Private Activity Bonds.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b) and 8869.86(c), Government Code.

Article 12. Universal Evaluation Criteria for All Applications

§ 5150. Satisfactory Evidence.

Wherever these regulations require that an Applicant demonstrate a certain condition or characteristic or satisfy certain minimum requirements, each such condition or characteristic or minimum requirement must be demonstrated by satisfactory evidence. The Executive Director shall, upon delegation by the Committee, determine whether each condition, characteristic or minimum requirement has been satisfactorily demonstrated and may refuse to consider any Application that has not satisfactorily demonstrated every minimum requirement.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.83(b) and 8869.84(c), Government Code.

§ 5151. Evaluation of Points.

Wherever the Application process contemplates the awarding of points, the Applicant must demonstrate by satisfactory evidence that the related criterion has been satisfied. Where it is determined by Committee staff that the evidence has not been satisfactorily demonstrated, the Executive Director shall not award the related points.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5152. Readiness Threshold.

The Applicant must demonstrate satisfactory evidence to Committee staff that it can use the Allocation within the time frame as provided in article 8 of this chapter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(a) and 8869.85(b), Government Code.

§ 5153. Measurement of Distance.

(a) Except as provided in (b) wherever ~~Wherever~~ these regulations contemplate an award of points based on a measurement of distance, that distance shall be measured from the perimeter of the proposed Project to the perimeter of the site amenity referenced. Applications shall include a detailed scaled-for-distance map from which the Committee can document that the measurement criteria have been met.

(b) Wherever these regulations refer to CTCAC regulations, in the event of any conflict between these regulations and the CTCAC with respect to measurement of distance, the CTCAC regulations shall prevail.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5154. Discovery of Erroneous Information.

It is the responsibility of each Applicant and each Project Sponsor to provide the Committee with complete and accurate information at the time the Application is filed. If the Applicant/Project Sponsor (or their attorneys, agents, employees, or other representatives) provides material that is incomplete, erroneous, inaccurate, misleading or false as to a fact to the Executive Director's decision-making process, the Application may be rejected. If incomplete, erroneous, inaccurate, misleading or false information is discovered by Committee staff after an Allocation has been made, the Allocation may be rescinded if Bonds have not been sold or an election to convert Bond authority to Mortgage Credit Certificates has not been filed with the Internal Revenue Service. If Bonds have been sold or converted to Mortgage Credit Certificates, the Committee may take other action as it deems appropriate.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5155. [Repealed]

Chapter 2. Qualified Residential Rental Projects, Article 1. Definitions

§ 5170. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Adaptive Reuse” means the retrofitting and repurposing of existing buildings that create new Qualified Residential Rental Project units for the market, and expressly excludes any Project that involves rehabilitation or any construction affecting existing residential rental units.

“AMI” or “Area Median Income” means the median family income of a county as set by the U.S. Department of Housing and Urban Development.

“At Risk Project” means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c)(4) and section 10325(g) of Title 4 of the California Code of Regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code section 17058(c)(4) and section 10325(g) of Title 4 of the California Code of Regulations, except that the assistance due to expire within five (5) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

“BIPOC entity” means an entity that is at least 51% owned by one or more Black, Indigenous, or Other People of Color or by a non-profit organization with a Black, Indigenous, or Other Person of Color executive director/Chief Executive Officer (CEO) and board membership that is comprised of at least 51% Black, Indigenous, and Other People of Color. For purposes of this paragraph, Black, Indigenous, or Other People of Color means “a person who checked the Black or African American, American Indian and Alaska Native, Asian, or Native Hawaiian and Other Pacific Islanders race category or who answered yes to the Hispanic Origin question on the 2020 United States Census or the most current publication of the United States Census.

“BIPOC Project” means a Qualified Residential Rental Project for which the sponsor is a BIPOC entity. A BIPOC Project may be a New Construction Project, Rural Project, Preservation Project, or Other Rehabilitation Project. A BIPOC Project does not include a project for which any principal, partner, or member of the sponsor entity is eligible to receive maximum General Partner Experience points pursuant to Section 10325(c)(1)(A) of the CTCAC regulations unless those points are awarded to a principal of the BIPOC entity who no longer is employed by the developer of, or has an ownership interest in, the project(s) which form the basis of the experience points.

“Bond and State Credit Allocation” means the Allocation plus any California State Tax Credits requested from CTCAC for an individual QRRP Project.

“Capital Needs Assessment” means a document containing the information defined in section 5212.

“Community Revitalization Area” means 1) a Distressed Community for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to the plan have occurred; 2) a Federal Opportunity Zone, Choice Neighborhood, or HUD-approved Neighborhood Revitalization Strategy Area; or 3) a Disadvantaged Community as identified by the California Environmental Protection Agency's CalEnviroScreen map.

“Community Revitalization Plan” means a comprehensive plan that details specific efforts being undertaken in a neighborhood or a community, that will result in the improvement of the economic conditions and the quality of life in that area.

“CTCAC/HCD Opportunity Area Map” shall have the same meaning as in Section 10302(vv) of the CTCAC regulations. An applicant may choose to utilize the census tract or census block group resource designation, as applicable, from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application. Projects located in map areas designated as “Missing/Insufficient Data” or similar designation shall be considered to be in the resource area that most frequently surrounds the perimeter of the Project's map area.

“Energy Star” means the certification satisfying the requirements of 42 U.S.C. section 6294(a).

“Federal Promise Zone” means any area with a continuous boundary and a population of not more than 200,000 that is nominated by a local government or Indian tribe and designated by the U.S. Department of Housing and Urban Development to receive priority for Federal funding on the basis of its **unemployment, poverty, vacancy, and crime rates.**

~~“Federally Assisted At Risk Project” means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c)(4) and by section 10325(g)(5)(B)(i)(v) of Title 4 of the California Code of Regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code section 17058(c)(4) and section 10325(g)(5)(B)(i) of Title 4 of the California Code of Regulations, except that the federal assistance due to expire within two (2) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.~~

“FHA” means Federal Housing Administration.

“FHA Financed Project” means a project financed under 221(d)3, 221(d)4, 223(f) Federal Housing Administration insurance program, or the Section 202 or 811 Capital Advance program, or any HUD-sponsored capital financing pilot program.

“Final and Conclusive Determination Letter” means a written confirmation from the Department of Finance (DOF) that its determination of an enforceable obligation as approved in a recognized obligation payment schedule is final and conclusive, and reflects DOF's approval of subsequent payments made pursuant to the enforceable obligation.

“Gross Rent” means gross rent as defined by 26 U.S.C. 42(g)(2)(B). Utility allowances, as provided by 26 U.S.C. section 42(g)(2)(B)(ii), will be included for purposes of this calculation. Projects that are **Federally Assisted**-At Risk Projects or Projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

“Hard Costs” means the cost of the work specified in a construction contract, including site work, excluding contractor profit, general requirements and contractor overhead.

~~“High Quality Transit” means a transit line with service seven days per week that operates on a railway, dedicated right of way or contains at least one of the following characteristics for at least a portion of its route: use of a High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lane, middle of the road boarding alignment, signal prioritization, or use of limited stop service, including express service and skip-stopping.~~

“HUD” means the United States Department of Housing and Urban Development.

“HUD Development Acknowledgement Letter” means HUD correspondence outlining that a project has submitted an application for FHA financing, that the application has been deemed complete, and that HUD is committed to providing the project with a Firm Commitment Letter prior to the issuance expiration date of the project's Allocation.

“HUD Firm Commitment Letter” means a HUD loan commitment for FHA financing.

“MAP Lender” means a HUD-qualified lender that prepares FHA forms and performs preliminary underwriting for certain FHA loan applications.

“Native American Lands” means real property located within the State of California that meets both the following criteria:

(a) is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States.

(b) the land may be leased for housing development and residential purposes under federal law.

~~“New Construction” means a Qualified Residential Rental Project in which 100% of its units constituting new units to the market, and expressly excludes any Project that involves rehabilitation or any construction affecting existing residential rental units.~~

~~“New Construction Project” - QRRP projects applying for an allocation of tax-exempt private activity bonds who meet at least one of the following: (1) 100% of its units constitute new units to the market, (2) involves the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater or (3) adaptive re-use of non-residential structures, including hotels and motels that were converted to residential use within the previous 5 years from the date of the application.~~

~~“Other Rehabilitation Project”: QRRP Projects applying for an allocation of tax-exempt private activity bonds from the General pool that is not eligible for treatment as a New Construction or a Preservation Project. In a Competitive Application Process, a rehabilitation or acquisition and rehabilitation project must meet all of the following criteria:~~

~~1. Will complete at least \$60,000 in hard construction costs per unit, as defined in TCAC Regulation Section 10320(u); and,~~

~~2. At least 60% of hard construction costs shall be expended only on immediate health and safety improvements, seismic and accessibility improvements and/or the replacement of major systems with a remaining useful life of less than ten years, as evidenced by a Capital Needs Assessment.~~

~~“Other Restricted Units” means units that are not Federally Bond Restricted Units but are affordable and identified in the CDLAC resolution as being subject to the long-term rent and income restrictions.~~

“Preservation Project” - a QRRP project applying for an allocation of tax-exempt bonds that is not a New Construction project and meets at least one of the following: (1) has a pre-1999 HCD loan that is being restructured pursuant to Section 50560 of the Health and Safety Code (AB 1699 projects) (2) any replacement or rehabilitation project approved by HUD pursuant to a Section 18 or Section 22 Demolition/Disposition authorization; (3) an At-Risk project that is not subject to a regulatory agreement imposing a rent restriction with a remaining term that is greater than five years from the year in which the application is filed that restricts income and rents on the residential units to an average no greater than 60% of the area median income; (4) any project being rehabilitated under the HUD Rental Assistance Demonstration (RAD) Program, or (5), a project that meets all of the following:

(a) the project (or projects, if more than one) is not currently encumbered with an existing CDLAC (via bond issuer), CTCAC, or other affordability regulatory agreement, with the exception of a regulatory agreement associated with a HUD Project-Based Section 8 or USDA Rental Assistance contract;

(b) the project (or projects, if more than one) is subject to an existing project-based contract under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program that provides rental assistance to at least 50% of the units; and

(c) the project (or projects, if more than one) shall be required to complete rehabilitation work at a minimum of \$60,000 in hard construction costs per unit, as defined in CTCAC Regulation Section 10302(u), subject to the provisions of IRC Section 42(e)(3)(A)(ii)(I).

~~“Public Funds” means direct grants, below market rate or subsidized loans, loans where the repayment of the financing is deferred into the future or based on residual receipts from the Project’s cash flow, direct funds from a public source including, but not limited to, waiver of fees or the value of land donated or leased by a public agency substantiated either by the actual purchase price of the land or by an appraisal whichever is lower, excluding a property tax exemption. Public Funds do not include any Allocation awarded by the Committee.~~

“Qualified Project Period” shall mean the same as defined in 26 U.S.C. section 142(d)(2)(A) and regulations promulgated thereunder, except that the minimum term shall be 30 years consistent with Section 5192.

“Rent Comparability Matrix” means the form by which the third party that has completed the Market Study provides information comparing the Project to comparable properties in the Project's market area and evidences that each of the Project's unit types has met the requirements of Section 5191(b).

“Residential Rental Regulatory Agreement” means a covenant recorded against the title of a subject property by a government entity limiting the property's use to rental housing and restricting tenant incomes and rents to no more than 80% of the Area Median Income of the County in which the property is located.

“Scattered Site Project” means multiple location Projects that:

(a) except where a single existing project-based Section 8 contract is in effect that covers all locations, consist of no more than five (5) locations; and

(b) are not contiguous except for the interposition of a road, street, stream or similar property; and

(c) are proposed to be financed through a single pooled bond transaction; and

(d) all locations are:

(1) subject to a Residential Rental Regulatory Agreement or subject to a federal, state, or local rental or operating assistance agreement:

(A) within the boundaries of the same city, or

(B) within a 10-mile diameter circle within the same county, or

(C) within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more; or

(2) All projects not described within (d)(1) must be within a one (1) mile diameter.

“Standard QRRP Application” means the Application for an Allocation of the Qualified Residential Rental Project Pool titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)” (Revised 05-31-2018), which is hereby incorporated by reference.

“State of California Universal Application for the Development of Affordable Rental Housing” means the State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool (revised 8-13-10), which is hereby incorporated by reference.

~~“Substantial Renovation Project” means a multifamily residential rental project where the hard costs of rehabilitation, including overhead, profit, and general conditions, are at least \$35,000 per tenant unit.~~

“Supplemental Allocation” means the award of allocation to a Qualified Residential Rental Program Applicant for a Project that received previous Allocation.

“Supplemental Allocation Request Letter” means the written request from the Applicant for Supplemental Allocation for Projects having been awarded Allocation within the last thirty six (36) months that may be submitted in lieu of a complete Application. The letter must be signed by the Applicant and include information about the Project including the date and amount of prior Allocation, the current status of the Project, revised sources and uses of funds, justification for the request for additional Allocation, and any additional information the Committee or Executive Director deems necessary.

“Universal Competitive Addendum” means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled “Competitive Application for an

Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum” (revised 11-30-2018), which is hereby incorporated by reference.

“Universal Open Addendum” means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled “Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum” (revised 11-30-2018), which is hereby incorporated by reference.

~~“VOC” means a volatile organic compound.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 2. Applications

§ 5180. Application Process.

Applicants seeking an Allocation of the Qualified Residential Rental Project Pool shall be considered in accordance with the provisions of chapter 1 and the submission of a QRRP Application. If deficiencies in the application are identified by CDLAC staff, CDLAC staff shall notify the Project Sponsor and the applicant, and the applicant will have 5 days from staff-issued notification to cure the deficiencies. If, after the 5 days, the deficiencies have not been corrected, as determined by CDLAC staff, the application will be deemed incomplete.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5181. Concurrent Application with Other Agencies.

Applicants for an Allocation of the Qualified Residential Rental Project Pool that also seek financing in conjunction with the California Department of Housing and Community Development and/or the California Housing Finance Agency may submit a Universal Competitive Addendum or a Universal Non-Competitive Addendum depending on whether the Allocation Round for which the Application is being submitted is being conducted under a competitive or non-competitive process as provided in section 5010(b).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5182. Concurrent Application with CTCAC.

Applicants requesting an Allocation for a Qualified Residential Rental Project who concurrently have an application for the same Project filed with CTCAC for consideration under the nine (9%) percent program set forth in section 10325 of Title 4 of the California Code of Regulations will not be permitted to apply to the Committee unless the application to CTCAC is withdrawn prior to the Application deadline.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5183. Subsequent Application with CTCAC.

Applicants that receive an Allocation for a Qualified Residential Rental Project are prohibited from subsequently requesting an allocation of 9% low income housing tax credits from CTCAC for the same Project, except where the Committee grants a waiver based on extraordinary circumstances, including but not limited to, the passage of significant time or circumstances outside the Applicant's control, and makes a determination that the waiver is consistent with the provision of affordable housing.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 3. Minimum Requirements

§ 5190. Readiness.

In its Application, the Project Sponsor must demonstrate its readiness to use the Allocation as set forth in this section.

(a) Demonstrated site control. The Applicant shall provide evidence that the Project site is at the time of Application submission within the control of the Applicant or Project Sponsor. Applicants shall provide information regarding the current owner of the project property, if other than the Project Sponsor. Except as provided below for reapplications,

a A current preliminary or final title report, or, for projects that will be located on Native American Trust Lands, a Land Title Status Report from the Bureau of Indian Affairs or an attorney's opinion regarding chain of title and current title status, all of which shall be dated no more than ninety (90) days prior to Application deadline as provided in section 5030, shall be submitted with all applications for the purposes of this requirement. A commitment for the title insurance or a title insurance document are not acceptable substitutions for a preliminary report title report, final title report, or a title report. The Committee may permit the site control title report of an unsuccessful application to be submitted, only once, in the reapplication cycle immediately following the unsuccessful application.

(1) Site control may be evidenced by any of the following:

(A) The Applicant or Project Sponsor holds fee title as evidenced by the current (within 90 days prior to the Application date) preliminary or final title report;

(B) An executed lease agreement or lease option for the length of time the Project will be regulated under this program between the Applicant or Project Sponsor and the owner of the subject property;

(C) An executed disposition and development agreement for the length of time the Project will be regulated under this program between the Project Sponsor and a public agency; or

(D) A valid, current, and enforceable contingent purchase and sale agreement or option agreement between the Project Sponsor and the owner of the subject property, including evidence that all extensions necessary to keep the agreement current through the date of the award of Allocation have been executed.

(E) Valid, current and enforceable purchase and sale agreements, contingent purchase sale or option agreements in combination between the Project Sponsor, a third party and the owner of the subject property such that the Committee can determine that upon a grant of Allocation the Project Sponsor has a right to acquire the subject property.

(F) The Executive Director may determine that site control has been demonstrated where a local agency has documented its intention to acquire the site, or portion of the site, through eminent domain proceedings as evidenced by order(s) of possession.

~~(b) Local Approvals and Zoning. The Project Sponsor shall provide evidence, no later than the application due date for the allocation round in which the Project is seeking an allocation, that the project meets the requirements of Section 10325 (f)(4) of the CTCAC regulations, the site is zoned for the Project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials have been obtained. Additionally, if any land use approval is subject to public appeal, within no less than 5 calendar days prior to the first public posting of the Committee, the applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits, but do not include design review approvals. The Applicant may include a completed Verification of Zoning and Local Approvals form signed by an appropriate local government planning official of the applicable local jurisdiction for the purpose of satisfying this requirement. Those Qualified Residential Rental Pool Projects with redevelopment-related project financing that is subject to the approval of the Department of Finance (DOF) are required to have obtained a Final and Conclusive Determination Letter, or other written communication from DOF stating that DOF does not issue, or concludes is unnecessary, a Final and Conclusive Determination for this form of redevelopment financing obligation, prior to submitting an application to the Committee.~~

(c) Project Sponsor and Project Developer. If not requesting experience points pursuant to section 5230(f), the application must include a summary of the Project Sponsor and Project Developer experience developing or rehabilitating housing with tax-exempt bond financing. A list of projects must be included. The list may take the form of the CTCAC Experience Attachment. Applicant must submit CDLAC form, INFORMATION ON PROJECT SPONSOR, that provides information pertaining to the Project Sponsor identified in the Application. Applicant must submit CDLAC form, COLLECTIVE EXPERIENCE OF PROJECT SPONSOR AND ALL PARTNERS that provides information pertaining to the experience of the Project Sponsor (if different than the Developer). The Application must include CDLAC form, INFORMATION ON PROJECT DEVELOPER, that provides information pertaining to the Project Developer identified in the Application. The Application must include CDLAC form, EXPERIENCE OF PROJECT DEVELOPER that provides information pertaining to the experience of the Project Developer. The Project Developer's CTCAC Certificate of Previous Participation and a CTCAC Schedule A form may be submitted as EXPERIENCE OF PROJECT DEVELOPER in lieu of the CDLAC form. Applicant must submit a list of California projects which the Developer and Project Sponsor (if different than the Developer) has developed or rehabilitated with tax-exempt bond financing. The list shall include the cities and counties in which the projects are located. The list shall be labeled as Attachment W-5. Applicant shall submit CDLAC form, INFORMATION ON PROPOSED MANAGEMENT COMPANY that provides information pertaining to the property management company that will manage the proposed Project.

(d) Legal Status of Project Sponsor and Developer. Applicants shall provide information regarding the legal status of the Project Sponsor and Developer. If a separate sheet is used to respond to the following questions, the sheet shall be labeled Attachment Y.

(1) Financial Viability. Disclose any legal or regulatory action or investigation that may have a material impact on the financial viability of the project or the Project Sponsor and Developer. The disclosure should be limited to actions or investigations in which the applicant or the applicant's parent, subsidiary, or affiliate involved in the management, operation, or development of the project has been named a party. Not Applicable is an unacceptable response.

(2) Fraud, Corruption, or Serious Harm. Disclose any legal or regulatory action or investigation involving fraud or corruption, or [health](#) and safety where there are allegations of serious harm to employees, the public, or the environment. The disclosure should be limited to actions or investigations in which the Project Sponsor and Developer or the Project Sponsor's and Developer's current board member (except for volunteer board members of non-profit entities), partner, limited liability corporation member, senior officer, or senior management personnel has been named a defendant within the past ten years. Not Applicable is an unacceptable response.

(3) Disclosures should include civil or criminal cases filed in state or federal court; civil or criminal investigations by local, state, or federal law enforcement authorities; and enforcement proceedings or investigations by local, state or federal regulatory agencies. The information provided must include relevant dates, the nature of the allegation(s), charters,

complaint or filing, and the outcome. For a publicly-traded company, the relevant sections of the company's 10K, 8K, and 10Q most recently filed with the Securities and Exchange Commission may be attached in response to question #1. With respect to a response for question #2, previous 10K, 8K, and 10Q filings of the company may be attached if applicable.

~~(e) Current Owner of Property Information. Applicants shall provide information regarding the current owner of the project property, if other than the Project Sponsor, by submitting CDLAC Attachment INFORMATION ON CURRENT OWNER OF PROPERTY. Reserved.~~

(f) Legislative Districts and Census Tracts. Applicants shall provide a. Federal Congressional District in which the proposed Project is located b. State Senate District in which the proposed Project is located c. State Assembly District in which the proposed Project is located d. Census Tract in which the proposed Project is located.

~~(g) (1) Prior Tax-Exempt Allocation Award. The Application will provide answer "Yes" or "No" to the questions, Has the proposed Project received a CDLAC allocation in the past? Was the allocation used to issue the bonds for the project? Have bond proceeds been used or drawn down? If "YES", Applicant will submit a narrative explanation of the circumstances surrounding the prior allocation and why additional allocation is being requested. The narrative must include the amount of the previous allocation, the month and year it was awarded, the CDLAC resolution number, the status of the bonds, the balance of bond proceeds, and a justification for the additional allocation. The narrative must be labeled as Attachment J. (2) Use of 4% Low Income Housing Tax Credits. If applicable, Application must include date when application will be made to the California Tax Credit Allocation Committee (TCAC).~~

(h) Project Description. Applicant shall submit a narrative description of the proposed Project, ~~labeled as Attachment K.~~ The description must contain, at a minimum, the following details: 1) the number of acres of the site (include topography and special features), 2) a description of the surrounding neighborhood, 3) the targeted population for the project (i.e., large families, seniors, etc.), 4) the expected start and completion date of construction/rehabilitation, 5) physical features of the project (i.e., description of buildings, grounds, project amenities, etc.), 6) unit configuration, 7) unit amenities, 8) scope of rehabilitation work, and 9) if applicable, a description of other unique features of the project. 10) ~~(a) If the The Application is submitted under a non-competitive process, the Application must include a checklist, description of the Project Type and Characteristics, including the construction type and proposed tenant population pursuant to Section 5000 of the CDLAC Regulations. (b) If the Application is submitted under a competitive process, Project Type and Characteristics documentation must be included pursuant to Section 5000 and 5170 of the CDLAC Regulations. with the Applicant checking as many items as are applicable to the proposed Project. (A)(i) The Project has an existing HAP contract. Please attach existing contract as Attachment L, L-1, L-2, etc. (ii) The proposed Project is an At Risk Project as defined in Section 5170 of the CDLAC Regulations. (iii) The proposed Project is a Low Income Housing Tax Credit Resyndication Project. (B) The proposed Project is a Mixed Income Project as defined in Section 5000 of the CDLAC Regulations. (C) The proposed Project is a Rural Project as defined in Section 5000 of the CDLAC Regulations. DO NOT CHECK if item (B), above, has been checked. (D) The proposed Project is a Preservation Project. (E) The proposed Project is a New Construction Project as defined in Section 5170 of the CDLAC Regulations. DO NOT CHECK if item (C), above, has been checked. (F) The proposed Project is a single room occupancy (SRO) rental project. (G) The proposed Project is a~~

~~senior citizens rental project. (H) The proposed Project is an assisted living rental project. (I) The proposed Project is a special needs housing rental project. (J) The proposed Project is eligible for the Homeless Set Aside. (K) The proposed Project is eligible for the Extremely Low/Very Low Income Set Aside. (L) The proposed Project is a BIPOC Project.~~

(i) Detailed Unit Affordability Information.

(1) The application will include the Federal Bond-Election of 20% at 50% Area Median Income, or 40% at 60% Area Median Income.

(2) For ~~federally-assisted-at-risk~~ projects and 4% low income housing tax credit projects, this shall mean that the Project units must have Gross Rents that are restricted to households whose incomes must be 50% or less of the AMI; or Gross Rents that are restricted to households whose incomes must be 60% or less of the AMI. Applications not meeting this minimum requirement will be deemed incomplete.

(3) The Application will include tables with the following information on the Restricted Rental Units: Number of Bedrooms/Number of Bathrooms, Unit Size in square feet, number of units in subtotals and total, total square feet per unit type in subtotals and total, proposed monthly tenant-paid rent per unit (excluding utilities), proposed monthly rental subsidy per unit, proposed monthly income per unit, monthly utility allowance, monthly gross rent, percent of Area Median Income based on monthly gross rent, and annualized total rental income. The Application will include another table, Market Rate Units, including number of bedrooms, unit square feet in subtotal and total, number of units, proposed monthly tenant-paid rent per unit (excluding utilities), total proposed tenant paid rent and annualized total rental income. Application will include a table, "Managers' Units" Restricted or Market Rate. The table will include columns for number of bedrooms, unit square feet in subtotal and total, number of units, proposed monthly manager-paid rent per unit, total proposed monthly manager-paid rent and annualized total rental income. Application will include a table with total number of units (excluding manager units), total number of restricted units, percent of total restricted units, number of units at or below 50% AMI, percent of units at or below 50% AMI, number of units above 50% to 60% AMI, percent of units above 50% to 60% AMI, number of restricted rental units with 3 or more bedrooms, and percent of restricted rental units with 3 or more bedrooms.

Applicants shall provide a breakdown of Project unit types, size, number of units, proposed tenant-paid rent, monthly utility allowances (if any), subsidies (if any) and unit percentage of Area Median Income (AMI) level based on monthly Gross Rent.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5191. Income and Rent Restrictions.

All Qualified Residential Rental Projects must meet the following minimum income and rent restrictions, which will be included in the Committee Resolution.

(a) Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the AMI. The rent restricted units that meet this requirement, with the exception of Mixed Income Projects, acquisition rehabilitation projects already subject to a Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement, and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the Project. All projects shall offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.

(b) Minimum Rent Restrictions. Except for projects subject to an existing Residential Rental Regulatory Agreement that propose tenant paid rents and income targeting not exceeding one hundred-five percent (105%) of the current rents and targeting and operate with a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%) as demonstrated by a market study completed pursuant to 26 U.S.C. Section 42(m)(1)(A)(iii); the proposed tenant paid rents for each Restricted Rental Unit type (defined by bedroom count) in the proposed development shall be at least ten percent (10%) below the weighted average rent for comparable market rate units and each Restricted Rental Unit's value ratio (dollars per square foot) shall be at or below the weighted average unit value ratio for comparable market rate units as demonstrated in a Rent Comparability Matrix meeting the requirements of article 4 of this chapter.

(c) Utility Allowance Evidence. All Projects **shall be** subject to the use of Gross Rent as defined by Section 5170 **and** shall provide evidence in one of the following forms:

(1) A letter from the local public housing authority that includes a current utility allowance schedule, certifies that the proposed Project is located within its jurisdiction and itemizes which components of the utility allowance schedule applies to the Project. Projects that are subject to a Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program do not require a housing authority certification and may rely solely on the utility allowance included in a HUD rent schedule provided the schedule specifically identifies the name of the Project.

(2) If a Project is to be substantially retrofitted for energy conservation or will be newly constructed with substantial energy conservation, the Applicant may submit revised utility allowances based on the projected reduction in utility costs after construction or retrofit. The revised utility allowances shall be validated by either of the following:

(A) A letter from the public utility or housing authority having jurisdiction over the Project that validates the revised utility allowances based on the proposed use of energy conservation materials, or

(B) A current utility allowance estimate consistent with 26 CFR section 1.42-10 (4-1-17), which is hereby incorporated by reference. The Applicant must indicate which components of the utility allowance schedule apply to the Project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission; and in accordance with the

California Tax Credit Allocation Committee's minimum requirements for utility allowance estimates, Title 4, Division 17, Chapter 1, Section 10322(h)(21).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5192. Minimum Term of Restrictions.

(a) Income and rent restrictions as identified in the Committee Resolution for the total number of units must be maintained for the Qualified Project Period. ~~For the purposes of subsection (1) and (2) of this section, Except as provided in subdivision (b), the Qualified Project Period is that period which begins on the date when ten percent (10%) occupancy is achieved and ends on the later of: shall be fifty-five (55) years following the date on which fifty percent (50%) occupancy is achieved or otherwise commencement of the Qualified Project Period. Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date.~~

~~(1) Thirty (30) years following the date on which fifty percent (50%) occupancy is achieved, or~~

~~(2) The date on which Bonds are no longer outstanding.~~

~~(3) For an acquisition/rehabilitation project where more than 10% of the units are available for occupancy within 60 days of the earlier of property acquisition or the bond issuance date, the Qualified Project Period begins 12 months after the bond issuance date and ends on the later of:~~

~~(A) Thirty one (31) years after the bond issuance date, or~~

~~(B) the date on which Bonds are no longer outstanding.~~

(b) ~~All Projects shall be subject to subdivision (a) or subdivision (c) of this section, unless~~ If a Project is intended for eventual tenant homeownership, ~~in which case the applicant shall provide~~ evidence of a financially feasible program ~~must be submitted~~ in the Application. The program shall include, but is not limited to, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, no involuntary relocation of tenants, and a plan for conversion of the facility to home ownership no sooner than the end of the initial 15-year Qualified Project Period as required by 26 U.S.C. section 142(d)(2)(A). In such a case, the regulatory agreement shall contain provisions for the enforcement of such covenants.

~~(c) If the round in which an Application is being considered has been established under an Open Application Process, the Committee shall increase the minimum term of restriction to fifty-five (55) years following the date on which fifty percent (50%) occupancy is achieved or otherwise commencement of the Qualified Project Period. Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5193. Debt Service Coverage Ratio.

(a) For Qualified Residential Rental Projects, a minimum debt service coverage ratio (the ratio of the net operating income from the Project divided by the required debt service on the debt associated with the Project) shall be no less than 1.15 except for FHA/HUD projects, RHS projects or projects financed by the California Housing Finance Agency.

(b) Applicants shall complete the following information relating to the Debt Service Coverage Ratio contained in the commitment for credit enhancement or private placement purchase of bonds, using annualized pro-forma figures:

(1) Potential gross income less vacancy rate. Applicants shall use market area vacancy rate or appraised vacancy rate, but in no event use less than 5%. If less than 5% is being used, a written explanation as to the reason must accompany the Application.

(2) net operating income (effective gross income minus operating expenses (include Operating & Replacement Reserves)), and

(3) principal plus interest (debt service), and

(4) the debt service coverage ratio (net operating income divided by principal plus interest). If Potential Gross Income is significantly higher than Monthly Gross Rent, then CDLAC may ask the applicant to identify other sources of Potential Gross Income to ascertain that these other sources are allowed.

(c) The Applicant shall also submit an itemized breakdown of the operating expenses. Annual operating expenses: general administrative (advertising, legal, accounting/audit, security, other and total general administrative), management fee, utilities (fuel, gas, water/sewer, other, total utilities), payroll/payroll taxes (on-site manager, maintenance personnel, insurance, other, total payroll/payroll taxes), maintenance (painting, repairs, trash removal, exterminating, grounds, elevator, other, total maintenance), service amenities budget (service coordinator/social worker, other, total service amenities), other (specify)(total other), total annual residential operating expenses, total real estate taxes, total reserves (operating and replacement), annual commercial operating expenses (if applicable), total commercial space expenses (if applicable) and total operating expenses.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5194. Project Sources & Uses and Project Costs.

(a) Applications shall submit an itemized breakdown of the complete sources of construction financing, ~~including but not limited to the following items, labeled as Attachment E-1: tax-exempt bond proceeds, taxable debt proceeds, developer equity, Low Income Housing Tax Credit (LIHTC) equity, direct and indirect public funds and seller carryback note and all liens to be included in the proposed financing, itemized;~~ and

(b) Applications shall include a listing of permanent sources and uses or complete and submit TCAC's Form Sources and Uses Budget or comparable documentation ~~as Attachment E-2;~~ and

(c) All liens to be included in the proposed financing should be itemized and a list of all liens to be paid off at closing ~~should~~ must be provided as ~~Attachment E-3: Disposition of Current Outstanding Liens.~~ All non-assumed liens to be paid off at closing shall separately listed including lender/loan, amount, disposition and corresponding exception number from the Title Report; and

~~(d) For rehabilitation projects,~~ Applicants shall submit an itemized breakdown of hard construction costs labeled as Attachment ~~H or H-1 8-B. Hard Construction/Rehabilitation costs shall consist of structure costs only;~~ and

~~(e) Applications with Projects where total project costs exceed \$500,000 per unit must include an explanation for why costs are beyond these levels and demonstrate that such costs are justified. Applications with high project costs may be presented to the Committee individually from the balance of recommended Projects.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 4. Market Studies

§ 5200. Minimum Requirements – Market Study.

The Market Study must meet the current guidelines as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10322(h)(10).

(a) A full Market Study with a Rent Comparability Matrix for each applicable unit type prepared within (180) days of the Application deadline by an independent third party having no identity of interest with the Applicant, Project Sponsor, or Related Party is required.

(b) The study must establish both need and demand for the proposed Project. If the Market Study does not support sufficient need and demand for the Project, the Application may be considered ineligible to receive an award of Allocation.

(c) Except where a waiver is obtained from the Executive Director in advance of a submitted application, CDLAC shall not award an allocation to a rural new construction project if a tax-exempt bond, tax credit, or other publicly assisted project housing the same population is currently under construction or has received an allocation of bonds within the same market area. The Executive Director may grant a waiver where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition. The Executive Director may also grant a waiver for subsequent phases of a single new construction project where those phases are described in the application of the initial phase.

(d) A market study shall be updated when proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increased by more than 5%, or 180 days have elapsed between the earliest site inspection date for the subject property or comparable properties and the application submission deadline for the round in which the Project is seeking an allocation. CDLAC shall not accept an updated market study when more than twelve (12) months have passed since the earliest listed site inspection date of either the subject property or any comparable property. In such cases, applicants shall provide a new market study.

(e) Acquisition/Rehabilitation projects subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Section 5200(a), a comprehensive market study consistent with 26 U.S.C. Section 42 (m)(1)(A)(iii). The study must be a written statement, certified by a third party market analyst, which includes a current rent roll. In addition, the project must meet at least one of the following requirements:

(1) as certified by a third-party market analyst, the proposed tenant paid rents and income targeting will not exceed one hundred-five percent (105%) of the current rents and targeting and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or

(2) as evidenced by copies of executed contracts, that the Project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 5. Sustainable Building Standards

§ 5205. Minimum Requirements.

(a) Applicants shall provide a certification that the ~~following minimum specifications pursuant to Section 10325(f)(7) (A) thru (J) of the CTCAC Regulations~~ will be incorporated into the project design for all new construction and rehabilitation projects. ~~The requirements of subsections (2) through (9) of this section are only applicable when investment in such elements is proposed in the Project's scope of work and/or the Capital Needs Assessment:~~

~~(1) Energy Efficiency. All rehabilitation projects shall have improved energy efficiency above the modeled energy consumption based on existing conditions, with at least a ten percent (10%) post-rehabilitation improvement over existing conditions. Scattered-site rehabilitation projects shall also have at least a five percent (5%) improvement over existing conditions at each location. In the case of projects in which energy efficiency improvements have been completed~~

~~within five years prior to the application date pursuant to a government program or a public or regulated utility program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements.~~

~~(2) Landscaping. A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the State's Model Water Efficient Landscape Ordinance (Title 23, California Code of Regulations, Section 490 et seq.) (<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.~~

~~(3) Roofs. Roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.~~

~~(4) Exterior Doors. Insulated or solid-core, flush, paint or stain-grade exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces; with all six sides factory primed and subject to a standard one-year guarantee.~~

~~(5) Appliances. Refrigerators, dishwashers, clothes washers and clothes dryers provided or replaced within low-income units and/or in on-site community facilities shall be ENERGY STAR rated appliances, unless waived by the Executive Director. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline~~

~~(6) Window Coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.~~

~~(7) Water Heater. For units with individual tank-type water heaters, minimum capacities are to be 28 gallons for one-bedroom and two-bedroom units and 38 gallons for three-bedroom and larger units.~~

~~(8) Floor Coverings. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. All carpeting shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D.~~

~~(9) Insulation. All fiberglass-based insulation shall meet the requirements as established by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (f)(7)(I).~~

~~(b) If a rehabilitation project's Applicant does not propose to meet the requirements of this section, its capital needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. If section 5205(a)(1) specifically is not being met, a qualified energy consultant shall provide documentation stating what energy improvements would achieve the 10% improvement, the cost of such improvement(s), and a statement describing why the improvements would be unnecessary and/or excessively expensive.~~

~~(c) Compliance and Verification. Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to CTCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit~~

evidence of compliance to CDLAC. For projects under construction or rehabilitation, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds.

~~(1) Projects subject to subdivision (a)(1) must submit the California Energy Commission HERS II energy consumption and analysis report, which shows the pre-rehabilitation and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement.~~

~~(2) For subdivisions (a)(2) through (a)(9), Applicants shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:~~

~~A. A certified HERS Rater;~~

~~B. A certified GreenPoint Rater; or~~

~~C. A US Green Building Council Certification~~

~~(3) Failure to produce appropriate and acceptable third party documentation for subdivisions (a)(1) through (a)(9) of this section may result in negative points.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 6. Acquisition and Rehabilitation Projects

§ 5210. Minimum Expenditures.

~~(a)~~ Except as set forth in subdivision ~~(b)~~ of this section, Qualified Residential Rental Projects involving the rehabilitation of existing buildings must complete a minimum of \$15,000 in hard construction costs per unit.

~~(b)~~ ~~Federally-Assisted~~ At Risk Projects that receive only an award of Bond authority and do not receive low income housing tax credits, must spend the minimum amount required by 26 U.S.C. section 147(d)(2).

~~(c)~~ For purposes of this article, “hard construction costs” means the sum of the structure costs plus on-site and off-site costs.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

§ 5211. Tenant Relocation.

Applicants proposing rehabilitation or demolition of occupied housing shall comply with Section 10322(h)(28) of the CTCAC regulations provide a detailed description of the relocation plan with the costs

~~included in the Project's budget. Where existing low income tenants will receive a rent increase exceeding five percent (5%) of their current rent, Applicants shall provide a relocation plan addressing economic displacement. Where applicable, the Applicant shall provide evidence that the relocation plan is consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act (42 U.S.C. chapter 61) and has been submitted to the appropriate local agency.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5212. Capital Needs Assessment.

~~The~~ Except as provided below for reapplications, the Applicant shall submit a Capital Needs Assessment with report and inspection dates within 180 days prior to the Application deadline that details the condition and remaining useful life of the building's major structural components, all necessary work to be undertaken and its associated costs, as well as the nature of the work, and distinguishing between immediate and long term repairs. The Capital Needs Assessment shall also include a fifteen (15) year reserve study, indicating anticipated dates and costs of future replacements of all major building components that are not being replaced immediately and the reserve contributions needed to fund those replacements. The Capital Needs Assessment shall be prepared by the Project's architect, as long as the architect has no identity of interest with the Project Sponsor or other member of the development team; or by a qualified independent third party who has no identity of interest with any of the members of the development team. The Capital Needs Assessment is not required if the Project, within the immediately preceding three (3) years, received an Allocation and this requirement was satisfied in the original Application. The Committee may permit the Capital Needs Assessment of an unsuccessful application to be submitted, only once, in the reapplication cycle immediately following the unsuccessful application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 7. Post Issuance Oversight and Termination of Project-Based Subsidies

§ 5220. Regulatory Compliance.

(a) All QRRP allocation recipients are required to execute a Bond Regulatory Agreement (the "Regulatory Agreement"), as a condition to the Committee's making an allocation, which will be recorded against the property for which the allocation is used, and will reflect all commitments outlined in exhibit A of the Committee's resolution. For projects submitted to CDLAC after December 31, 2016, the Regulatory Agreement shall terminate prior to the end of the CDLAC Resolution affordability term only in the event of (i) involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action of a federal agency after the bond issuance which prevents the Issuer, Fiscal Agent and/or the Trustee (as applicable) from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, and/or transfer of title by deed in lieu of foreclosure in connection with a deed of trust directly or indirectly securing the repayment of Standard Permanent Bonds, or repayment of a non-Bond related obligation that provides permanent project financing and meets the requirements of section 5193 or condemnation or a similar event, but only if, in

the case of the events described in either clause (i) or (ii) above, the bonds are redeemed within a reasonable period or the proceeds for the event are used to provide a project that meets the requirement of the Regulatory Agreement.

(b) If Cash Flow Permanent Bonds finance project costs in projects submitted to CDLAC after December 31, 2016, all units identified in the CDLAC resolution, including both the Federally Bond-Restricted Units and the Other Restricted Units, will be incorporated into the Bond Regulatory Agreement. Assumptions to be included in the Bond Regulatory Agreement regarding the Other Restricted Units will include the AMI as outlined in the CDLAC resolution, a limitation that tenants pay no more than 30% of their income, and 1.5 person per bedroom occupancy standard to determine the applicable rent.

(c) For projects receiving allocation after December 31, 2016, The Bond Regulatory Agreement will:

- (1) Incorporate the CDLAC resolution by reference and as an attachment;
- (2) Have a term consistent with the income and rental restrictions established in the Resolution. The Bond Regulatory Agreement shall terminate in ~~an Open Application process 55 years (50 years for Projects located on Native American Lands), and in a Competitive Application Process 30 years,~~ from the date 50% occupancy is achieved or the commencement of the CDLAC Qualified project period, whichever date is earlier;
- (3) Include all applicable income and affordability requirements outlined in 26 U.S.C. § 142, Cal. H&S Code § 34312.3 (c)(1) & (2), Cal. H&S Code § 51335(a), and Cal. H&S Code § 52080 (a)(1);
- (4) Clarify that compliance with items not contained within the body of the Bond Regulatory Agreement but referred to in the CDLAC resolution are the responsibility of the Sponsor to report to the Issuer;
- (5) Designate CDLAC to receive notice of changes in ownership, Issuer, project name and management company; and
- (6) Designate CDLAC to receive all notices regarding defaults associated with the rents and income requirements, Bond Default, Qualified Bond Default, and regulatory termination.

(d) Where a Project is receiving renewable project-based rental assistance or operating subsidy:

- (1) the Sponsor shall in good faith apply for and accept all available renewals; and
- (2) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall immediately notify CDLAC in writing and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the CDLAC resolution. Upon documenting to CDLAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for rent restricted units above the levels allowed by the CDLAC resolution up to the federally and state-permitted maximums. Rents shall be raised only to the extent required for financial feasibility, as determined by CDLAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by CDLAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's financial

feasibility. If housing special needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-special needs households only as necessary and upon vacancy whenever possible.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 8. Evaluation Criteria

§ 5230. Evaluation Criteria.

~~(a) The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Any points awarded in this section shall be rounded to the nearest one-tenth decimal place unless otherwise stated in this section. Each of the items in this section shall be memorialized in the Committee Resolution.~~

~~(b) Preservation Projects. Projects meeting the following criteria shall receive the following points, up to a maximum of 20 points:~~

~~(1) a project subject to a Residential Rental Regulatory Agreement or a local, state, or federal rental or operating assistance contract, or a project subject to an expired residential rental agreement that continues the rental structure prescribed by the expired residential rental agreement, as demonstrated by a copy of the executed agreement or contract, shall receive ten (10) points;~~

~~(2) a project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it receives state or federal rental assistance or a state, federal, or local operating subsidy and, as a result, the rents are limited in at least fifty percent (50%) of the Project's tenant units to no more than thirty percent (30%) of each such unit's tenants' income, as demonstrated by a copy of the executed agreement or contract;~~

~~(3) a Project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it has income restricted tenant paid rents for each Restricted Rental Unit type that on average are at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties, as demonstrated in a market study meeting the requirements of section 5200(e) and in a table utilizing three (3) market comparable properties for each restricted unit type in the Project. Projects currently subject to Hold Harmless Rents pursuant to the 2008 Federal Housing and Economic Recovery Act may continue to use Hold Harmless Rents in an application when rents are below federal set-aside limits and applicable state requirements. If~~

the project is currently subject to Hold Harmless Rents, Applicant must provide the year the project was placed in service.

~~(c) Exceeding the Minimum Income Restrictions (35 points maximum for Qualified Residential Rental Projects other than Mixed Income Projects, 15 points maximum for Mixed Income Projects). Points will be awarded as set forth below for the percentage of units that are Restricted Rental Units. The Gross Rent definition will apply to the rents calculated in this subdivision.~~

~~(1) For each ten percent (10%) increment of units restricted at fifty percent (50%) of AMI or below, Qualified Residential Rental Projects other than Mixed Income Projects will receive seven (7) points, and Mixed Income Projects will receive three (3) points (fractional percentages above the minimum 10% increment will be calculated on a pro rata basis and the total points calculated will be rounded to the nearest whole number).~~

~~(2) For each ten percent (10%) increment of units restricted at greater than fifty percent (50%) of AMI, and up to sixty percent (60%) of AMI, Qualified Residential Rental Projects other than Mixed Income Projects will receive two (2) points, and Mixed Income Projects will receive one-half (½) point.~~

~~(d) Gross Rents (5 points).~~

~~(1) Five (5) points will be awarded to Projects that are not subject to the use of Gross Rents but voluntarily do so to define Restricted Rental Units as evidenced by one of the following:~~

~~(A) A letter from the local public housing authority that includes a current utility allowance schedule, certifies that the proposed Project is located within its jurisdiction and itemizes which components of the utility allowance schedule applies to the Project. Projects that are subject to a Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program do not require a housing authority certification and may rely solely on the utility allowance included in a HUD rent schedule provided the schedule specifically identifies the name of the Project.~~

~~(B) If a Project is to be substantially retrofitted for energy conservation or will be newly constructed with substantial energy conservation, the Applicant may submit revised utility allowances based on the projected reduction in utility costs after construction or retrofit. The revised utility allowances shall be validated by either of the following:~~

~~1. A letter from the public utility or housing authority having jurisdiction over the Project that validates the revised utility allowances based on the proposed use of energy conservation materials, or~~

~~2. A current utility allowance estimate consistent with 26 CFR section 1.42-10. The Applicant must indicate which components of the utility allowance schedule apply to the Project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission; and in accordance with the California Tax Credit Allocation Committee's minimum requirements for utility allowance estimates, Title 4, Division 17, Chapter 1, Section 10322(h)(21).~~

~~(e) Exceeding the Minimum Rent Restrictions (10 points maximum). One (1) point will be awarded for each percentage point the highest rental rate of each Restricted Rental Unit type (defined by bedroom count) is more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. The average of all Restricted Rental Unit type percentage points beyond 20% will be used to determine the number of awarded points. All unit types must be more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rental Comparability Matrix to qualify for points under this category. Where sizes (defined by square footage) vary among those units with the highest rent, the smallest of these units shall be the basis for this comparison. When family comparables are used in addition to senior comparables (outside the 1-mile radius) points will be calculated using the family matrices. Applications receiving points under subdivision (b) of this section shall be ineligible to receive points under this subdivision.~~

~~(f) Exceeding the Minimum Term of Restrictions (10 points maximum). If the Committee establishes a Competitive Application Process, Applications that maintain the Qualified Project Period for longer than thirty (30) years will be awarded two (2) points for every five (5) years of affordability beyond thirty (30) years.~~

~~(g) Large Family Units (5 points). Five (5) points will be awarded to those Projects where at least twenty-five percent (25%) of the Restricted Rental Units are three-bedroom or larger units.~~

~~(h) Leveraging (10 points maximum).~~

~~(1) Applications that include Public Funds as a permanent funding source are eligible for points. All Public Funds must be committed by a public entity at the time of Application. Evidence provided shall signify the form of the commitment, the amount of the loan, grant or subsidy, the length of the term of the commitment, conditions of participation, express authorization from the governing body or an official expressly authorized to act on behalf of said governing body, committing the funds, and the Project Sponsor's acceptance. Commitments shall be final and only subject to conditions within the control of the Project Sponsor. Funding commitments shall be from funds within the control of the entity making the commitment at the time of the Application. One (1) point will be awarded for every dollar of Public Funds committed as a percentage of total development costs (minus developer fees).~~

~~(2) Applications that include Taxable Debt as a permanent funding source, in addition to tax-exempt Bond financing, are eligible for points based on the degree that the Taxable Debt supplants the use of tax-exempt Bond financing. The requirement for using Taxable Debt will be included in the Committee Resolution. Taxable Debt may only be utilized for project related expenses, not for the cost of issuance, for which the Applicant could otherwise have used tax-exempt financing in order to receive points under this category. One half (1/2) of a point will be awarded for every dollar of Taxable Debt committed as a percentage of total development costs (minus developer fees).~~

~~(i) Community Revitalization Area Criteria (5 points). Projects meeting the following criteria will receive 5 points:~~

~~(1) The project is located within:~~

~~(A) any Qualified Census Tract or equivalent geographic area defined by the Census Bureau in which at least fifty percent (50%) of the households have an income of less than sixty percent (60%) AMI; or~~

~~(B) a Federal Promise Zone; and~~

~~(2) The development will contribute to a concerted Community Revitalization Plan as demonstrated by a letter from a local government official. The letter must delineate the community revitalization efforts, including but not limited to:~~

~~(A) community enhancement services in the neighborhood, including but not limited to, job training or after-school enrichment programs;~~

~~(B) funds, not including funds for the proposed project, that have been expended in the past three (3) years, that are being expended or that are committed to be expended to improve the community infrastructure, including, but not limited to, parks, storm water systems, sewer systems, or street improvements of the overall area;~~

~~(C) projects, including but not limited to, retail, office and housing that contributes to community revitalization that have been completed within the past three (3) years, are underway or are committed to be completed; and~~

~~(D) how the project would contribute to the community's revitalization.~~

~~(j) Site Amenities (10 points maximum)~~

~~(1) The Committee will award points to Applications with site amenities as described in this subdivision. Except as specifically set forth in this section, points will be awarded only for those amenities that exist at the time of Application. Applicants requesting points for site amenities that do not currently exist must include a letter from the controlling entity, signed by an authorized individual representing the entity, that states the funds for the amenity are committed, and the amenity is planned. The letter shall also state the anticipated date for the amenity to be placed in service, which shall not be more than two (2) years after the date the Project is anticipated to be placed in service.~~

~~(2) Points will be awarded provided the site amenities are appropriate for the population served, and a scaled-for distance map showing the location of the Project and amenities is provided as follows:~~

~~(A) Points will be awarded for the following Transit amenities:~~

~~1. Two and one-half (2 ½) points for projects located within one-third (1/3) mile of a Public Transit Corridor or, for Rural Projects where there is no public transportation system, to projects using a van or dial-a-ride service; or~~

~~2. Two and one-half (2 ½) points for projects located within one-half (1/2) mile of a High Quality Transit stop or station.~~

~~3. Projects eligible for points in subsection (A)(1) or (2) will receive the following additional points for committing to provide to residents monthly passes for the transit amenity for which the project received points at no cost or priced at no more than half of retail cost. Passes shall be made available on a first-come, first-served basis to all tenants of rent-restricted units for at least 15 years:~~

~~a. three (3) points for at least one pass per rent-restricted unit.~~

~~b. one and one-half points (1½) for at least one pass per each 2 Rent-Restricted units.~~

~~(B) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a park or recreational facility.~~

~~(C) Points will be awarded under 1 of the 2 following categories: i) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile (1 mile for Rural Projects) of a full service grocery store of at least 25,000 gross interior square feet; or ii) Two and one-half (2 ½) points will be awarded to Projects located within one-fourth (1/4) mile (one-half (½) mile for Rural Projects) of a full service grocery store of at least 5,000 gross interior square feet. Evidence shall include, but is not limited to, the following: a signed letter from a county assessor or city planner for that jurisdiction certifying the square footage of the grocery store, a letter from the store manager, or a letter from the Project's architect. The letter must state the square footage of the grocery market. A full service grocery store shall mean for the purpose of this section a store or market that provides at minimum, food staples, fresh meats and/or poultry, dairy products, and produce, as well as other personal and household products and sundries.~~

~~(D) Two and one-half (2 ½) points will be awarded to Projects located near a school. The site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school that children living in the development may attend (an additional 1/2 mile for each public school type for Rural projects) and that the site is within the attendance area of that school. Projects where all units are restricted to households having members 55 years or older, shall not be eligible for points in this category. Evidence shall include, but is not limited to, the following: a signed letter from the school district with the appropriate Project address stating said~~

~~address is within the boundaries of the school, or documentation from an internet-based school locator tool.~~

~~(E) Two and one-half (2 1/2) points will be awarded to Projects located within:~~

~~1. 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic:~~

~~a. that has a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, and~~

~~b. that accepts Medi-Cal and Medicare payments, or Health Care for the Homeless for projects housing homeless populations, or that has an equally comprehensive subsidy program for low-income patients; or~~

~~2. 1 mile (for Rural set-aside projects, 1.5 miles) of a hospital (not merely a private doctor's office); or~~

~~3. 1/2 mile (for Rural projects, 1 mile) of a pharmacy.~~

~~(F) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a public library.~~

~~(G) Two and one-half (2 ½) points will be awarded to Projects which provide high-speed internet or wireless "WiFi" service connection in each unit. High-speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of 15 years, free of charge to the tenants, and available at the time of the project's placed-in-service date.~~

~~(k) Sustainable Methods (10 points maximum).~~

~~(1) Points will be awarded provided that the Project Sponsor and the licensed Project architect each submit a certification indicating which items, commencing with subdivision (k)(3) of this section, will be included in the Project's design and any relevant specifications. For the purposes~~

~~of this paragraph, “certification” by the Project Architect has the same meaning as set forth in Business and Professions Code Section 5536.26.~~

~~(2) The Project Sponsor shall submit a certification at Project completion from the Project’s licensed architect that the design elements that formed the basis for any award of points pursuant to subdivision (k) have been met or exceeded. For the purposes of this paragraph, “certification” by the Project Architect has the same meaning as set forth in Business and Professions Code Section 5536.26. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under subdivision (k) who fails to meet this requirement will be subject to negative points under subdivision (n) of this section.~~

~~(3) Five (5) points will be awarded to Projects that commit to no irrigation, or to irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens) provided that the offset of potable water equals or exceeds 10,000 gallons annually.~~

~~(4) Two (2) points will be awarded to Projects that commit to having at least one (1) nonsmoking building. If the proposed Project contains only one (1) building, the Project is subject to a policy developed by the Sponsor that prohibits smoking in contiguous designated units. In both circumstances these restrictions shall be incorporated into the lease agreements for the appropriate units.~~

~~(5) Two (2) points will be awarded to Projects that commit to a parking ratio equivalent to or less than 1 parking stall per single room occupancy or one bedroom restricted rental unit and 1.5 parking stalls per two bedroom or larger restricted rental unit.~~

~~(6) New Construction and Adaptive Reuse Projects: Up to five (5) points will be awarded to projects that commit to developing the project in accordance with the California Tax Credit Allocation Committee’s minimum requirements for energy efficient programs, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(A).~~

~~(7) New Construction and Adaptive Reuse Projects: Points shall be awarded according to the California Tax Credit Allocation Committee’s minimum requirements for energy efficiency programs, Title 4, Division 17, Chapter 1, Section 10325 (c)(b)(B).~~

~~(8) Rehabilitation Projects: Points are awarded based on the energy efficiency criteria described for Rehabilitation Projects in The California Tax Credit Allocation Committee regulations, Title 4, Division 17, Chapter 1, Section 10325(c)(6)(C), (D) and (E).~~

~~(9) Compliance and Verification. The form of evidence shall follow that described in Title 4, Division 17, Chapter 1, Section 10325(c)(6)(G). Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to CTCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit Evidence of Compliance to CDLAC.~~

~~(I) Service Amenities (10 points maximum).~~

~~(1) Points will be awarded provided the Project Sponsor certifies the following:~~

~~(A) Service amenities must be appropriate to the tenant population served and committed to for a minimum of fifteen (15) years. Programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be designed to generate positive changes in the lives of tenants, such as increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.~~

~~(B) Services must be provided on-site except that Projects may use off-site services within a one-half (½) mile of the Project (one and one-half (1½) miles for Rural projects) provided that they have a written agreement with the service provider at the time of Application enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Projects may use off-site services located more than one-half (½) mile from the Project (one and one-half (1½) miles for Rural projects) provided that they have a written agreement with the service provider at the time of Application enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative, and a written agreement at the time of Application demonstrating that tenants will be provided with free-of-charge round-trip transportation between the development and the off-site services. Referral services will not be eligible for points.~~

~~(C) Contracts with service providers, service provider experience, and evidence that physical space will be provided on or off site must be documented within the Application. Documentation must be provided for each category of services for which the Applicant is claiming service amenity points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state annual value of the services; commit that services will be provided for a period of at least one (1) year; and name the project to which the services are being committed. Evidence shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category. All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals may not be substituted for organizational experience.~~

~~(D) The Application must propose a combined annual value of at least \$10,000, or \$5,000 for Projects of twenty (20) units or fewer, for those services. In addition, any donated services must be assigned a dollar value by the provider of those services. Applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the Project's services program.~~

~~(2) Points will be awarded in this subdivision as follows:~~

~~(A) Five (5) points to family Projects with after school programs of an ongoing nature. Programs shall include, but are not limited to: tutoring, mentoring, homework club, art and recreation activities. Programs shall be provided on weekdays throughout the school year for at least 10 hours per week.~~

~~(B) Five (5) points to Projects with instructor led educational classes, health and wellness, or skill building classes, including but not limited to: financial literacy, computer training, home buyer education, GED, resume building, ESL, nutrition, exercise, health information/awareness, art, parenting, on-site food cultivation and preparation, and smoking cessation. Instruction is to be provided a minimum of 84 hours per year (drop in computer labs, monitoring or technical assistance shall not qualify).~~

~~(C) Five (5) points to Projects with licensed childcare providing 20 hours or more per week (Monday through Friday) to residents of the development.~~

~~(D) Five (5) points to Projects with wellness services and programs, such services and programs shall provide individualized support for tenants (not group classes) but need not be provided by licensed individuals or organizations. The services and programs shall include, but are not limited to: visiting nurses programs, intergenerational visiting programs, and senior companion programs. The services and programs shall be provided for a minimum of 100 hours per year.~~

~~(E) Five (5) points to Projects with a full time equivalent (FTE) bona fide service coordinator/social worker available, provided that the experience of the coordinator, the duties of the coordinator and a budget to pay for the coordinator are included in the Application. The minimum number of hours per year for the full time equivalent service coordinator/social worker will be calculated based on the formula: 1) the number of bedrooms X 0.0017 = FTE multiplier; then 2) FTE Multiplier X 2,080 = minimum number of hours per year (up to a maximum of 2,080 hours). The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.)~~

~~(m) New Construction and Substantial Rehabilitation Projects (10 points). Ten (10) points will be awarded to new construction, substantial renovation or adaptive re-use Projects with Restricted Rental Units.~~

~~(n) For projects subject to the Competitive Application Process, one (1) point will be awarded for each one percent (1%) of foregone eligible developer fee, as determined by the California Tax Credit Allocation Committee, pursuant to Title 4, Division 17, Chapter 1, Section 10327, up to a maximum of ten (10) points.~~

~~(o) ——— Negative Points (No maximum).~~

~~(1) The Committee will deduct points for an Application involving a Project Sponsor that has been or is a Related Party to a Project Sponsor (i.e. in the ownership structure) for which an Allocation has been awarded as follows:~~

~~(A) Ten (10) points will be deducted for each failure to fully utilize the committed public subsidies or Taxable Debt for which points were awarded in connection with the prior~~

~~Allocation, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control or the amount not utilized is not material. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.~~

~~(B) Ten (10) points will be deducted for each failure to issue Bonds that results in the full amount of the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) succeeding years (10 points each year) following the year Allocation was awarded.~~

~~(C) Ten (10) points will be deducted for each failure to spend the proceeds of Bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control, the amount not spent is not material, or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will be assessed against the Project Sponsor for a period of three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.~~

~~(D) Ten (10) points will be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction will be assessed for a period of three (3) calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.~~

~~(2) Where CTCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.~~

~~(3) Where CTCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.~~

~~(4) Multiple or repeated failures of subdivisions (n)(1) or (3) of this section may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.~~

(a) The following criteria will be used to evaluate and rank all Qualified Residential Rental Project applications. Each of the items in this section shall be memorialized in the Committee Resolution.

(b) Preservation and Other Rehabilitation Project Priorities (20 points maximum). Preservation and Other Rehabilitation Projects meeting the following criteria shall receive points in the highest scoring category only:

(1) An At Risk Project, or a project in which lower-income rent and income restrictions on at least 50 percent of the total units pursuant to a regulatory agreement with a public entity will terminate or be eligible for termination within five years of application with no other rent and income restrictions remaining, or any replacement or rehabilitation project approved by HUD pursuant to a Section 18 or 22 Demolition/Disposition authorization, or any component one project being rehabilitated under the HUD Rental Assistance Demonstration (RAD) Program shall receive 20 points.

(2) A project that meets at least one of the following shall receive 14 points:

(A) A component two project being rehabilitated under the HUD Rental Assistance Demonstration (RAD) Program; or

(B) A project with a pre-1999 HCD loan that is being restructured pursuant to Section 50560 of the Health and Safety Code (AB 1699) that has not previously received an allocation of Low-Income Housing Tax Credits.

(3) A project that receives governmental assistance on at least 50 percent of the units pursuant to any of the following and that has not previously received an allocation of Low-Income Housing Tax Credits shall receive 6 points:

(A) Project-Based Section 8 or Rent Supplement,

(B) USDA Rent Supplement,

(C) Section 236 Financing,

(D) Section 221(d)(3) Financing, or

(E) USDA 514 or 515 Financing.

(4) A project that receives governmental assistance on at least 50 percent of the units including AB 1699 funding that have previously been syndicated are eligible for 6 preservation priority points.

(c) New Construction Density and Local Incentives (10 points maximum); Preservation Projects and Other Rehabilitation Projects are not eligible for these points). A New Construction Project that meets any of the following shall receive 10 points:

(1) The local jurisdiction has approved the project pursuant to Section 65913.4 of the Government Code, at a density greater than that allowed by the site's zoning through the use of a density bonus allowed by Government Code Section 65915 or a local ordinance, or with concessions and/or waivers granted pursuant to Government Code Section 65915;

(2) The project is being developed at a per net acre density that meets one of the following criteria:

(A) 100 bedrooms per net acre in a metropolitan county;

(B) 60 bedrooms per net acre in a suburban jurisdiction;

(C) 40 bedrooms per net acre in all other areas.

[For the purposes of this paragraph, "net acre" is defined as the acreage within the parcel boundaries after subtracting any area affected by the dedication of public right-of-way, the presence of restrictive easements, and non-buildable areas. "Metropolitan county" and "suburban jurisdiction" shall have the same meaning as in Section 65583.2

of the Government Code. Projects with land-use approvals obtained prior to January 1, 2022 shall earn full points in this category.]

(3) The project is located in a city or unincorporated portion of a county for which HCD has designated the city or county, respectively, as pro-housing pursuant Section 65589.9(c) of the Government Code.

(d) Exceeding Minimum Income Restrictions (20 points maximum). A project shall receive points in either of the following manners:

(1) 2 points for each full percent that the average affordability of tax credit units is less than 60% of area median income subject to the Gross Rent definition; or

(2) 20 points if the average affordability of tax credit units is less than or equal to 60% of area median income, provided that at least 10% of tax credit units are restricted at or below 30% of area median income and an additional 10% of tax credits units are restricted at or below 50% of area median income, subject to the Gross Rent definition.

(e) Exceeding Minimum Rent Restrictions (10 points maximum). A project shall receive one point for each full percent that the average affordability of tax credit units is more than ten percent (10%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. This percentage shall be calculated separately for units of each bedroom count, with the results for each unit type weighted relative to the percentage of tax credit units of that type in the project, and the resulting percentage shall be used to determine the final point score. In cases where unit sizes of the same unit type vary, the smallest of these units shall be the basis for comparison. When family comparables are used in addition to senior comparables (outside the 1-mile radius) points will be calculated using the family comparables.

(f) General Partner and Management Company Experience (10 points maximum).

(1) A project shall receive general partner experience points in one of the following manners:

(A) The number of general partner experience points for which it is eligible pursuant to Section 10325(c)(1)(A) of the CTCAC regulations.

(B) 7 points if the project is a joint venture between an entity which receives maximum general experience points pursuant to Section 10325(c)(1)(A) of the CTCAC regulations and a BIPOC, provided that the partnership agreement (i) allocates a share of the developer fee, cash flow, and net sale proceeds to the BIPOC that is equal to or greater than the share to the entity with maximum general experience points and (ii) provides the BIPOC Entity an option to purchase the development.

(C) 7 points if the sole sponsor is a BIPOC that (i) is a general partner in at least one Low-Income Housing Tax Credit development that has received a certificate of occupancy, or if a rehabilitation project, completed rehabilitation, within five years of the date of application, (ii) submits the certification from a third party certified public accountant referred to in Section 10325(c)(1)(A)(i) of the CTCAC regulations for that development, (iii) demonstrates to the satisfaction of the Executive Director adequate in-house or contracted knowledge, skills, experience, and financial capacity to successfully develop, own and operate the proposed project, and (iv) completes training as prescribed by CTCAC prior to a project's placing in service.

(2) A project shall receive management company experience points in one of the following manners:

(A) The number of management company points for which it is eligible pursuant to Section 10325(c)(1)(B) of the CTCAC regulations.

(B) 3 points if the management company will be the BIPOC for which the project receives general partner experience points pursuant to paragraph (1)(C).

(g) Housing Types (10 points maximum; Preservation Projects and Other Rehabilitation Projects not eligible for these points). A New Construction Project that meets any of the following criteria shall receive 10 points:

(1) The project meets the criteria for any of the housing types described in Section 10325(g) of the CTCAC regulations. Points will be awarded only in one housing type

(2) The project meets the requirements of subdivision (c) of this section or is a New Construction Project that obtained all land use approvals prior to January 1, 2022.

(h) Leveraged Soft Resources (8 points maximum). A project shall receive 1 point for each full percent that leveraged soft resources defraying residential costs represent as a percentage of total residential project development costs, except that a New Construction Project that receives points as a Large Family, or Special Needs project pursuant to the conditions specified in Section 5230(j)(1)(A) and is located in a High or Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map shall receive 2 points for each full percent of leveraged soft resources. For purposes of this subdivision, leveraged soft resources shall have the same meaning as in Section 10325(c)(9) of the CTCAC regulations.

(i) Readiness to Proceed (10 points maximum). A project shall receive the number of points for which it is eligible pursuant to Section 10325(c)(7) of the CTCAC regulations, except that the applicant shall commit to commence construction within 180 days of the bond allocation. Projects that receive the maximum number of points pursuant to this subdivision shall submit within that time period, evidence of the issuance of building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin), or the applicable tribal documents, and notice to proceed delivered to the contractor that meets the requirements of Section 10325(c)(7) of the CTCAC regulations. Failure to meet the 180-day due date shall result in rescission of the bond allocation or negative points.

(j) Affirmatively Furthering Fair Housing (20 points maximum).

(1) A project shall receive points in only one of the following manners:

(A) 20 points if the project receives points as a Large Family project or Special Needs project pursuant to Section 5230(g) (except the Special Needs project shall have at least 50% of its units set aside as permanent supportive housing for the homeless), is located in a High or Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map, and at least 10% of tax credit units shall be restricted at or below 30% of area median income and an additional 10% of tax credits units shall be restricted at or below 50% of area median income (except Special Needs projects shall be exempt from this 50% AMI requirement).

(B) 9 points if the project receives points as a Large Family project pursuant to Section 5230(g), is located in a Moderate (Rapidly Changing) or Moderate Resource Area as specified on the CTCAC/HCD Opportunity Area Map, and at least 10% of tax credit units shall be restricted at or below 30% of area median income and an additional 10% of tax credits units shall be restricted at or below 50% of area median income. In addition, the

project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the CTCAC regulations.

(C) 9 points if the project receives points as a Large Family project pursuant to Section 5230(g), is located in a Low Resource or High Segregation and Poverty Area as specified on the CTCAC/HCD Opportunity Area Map, has income and rent restrictions:

(a) with at least a 40% AMI spread between the lowest restricted unit, which shall be no lower than 30% AMI, and the highest restricted unit with at least 10% of the units at the upper end of the range, provided that these upper-end restricted rents are at least 10% below market rents, and if this condition is not achievable as evidenced by the market study, or if the Low Resource or High Segregation and Poverty Area in which the project is located is adjacent to a High or Highest Resource Area, the project shall be permitted to reduce the AMI spread from 40% to 30%, but in no case shall the upper-end restricted units drop below 60% AMI, or

(b) consistent with the restrictions of a public funding source that was made available prior to December 31, 2020 and either

(i) the sponsor is one of the following:

(1) a BIPOC Entity that has maintained a headquarters or office within five miles of the project for a period of five years prior to the application;

(2) a Community Housing Development Organization (CHDO) as certified by the local participating jurisdiction in which the QRRP will be located;

(3) a sponsor who has previously developed affordable housing within the community in which the QRRP will be located in the past 20 years; or

(4) a sponsor who has continually, during the prior 10 years preceding the application date, provided educational, health or economic development services to the community in which the QRRP will be located; or

(ii) the project is one of the following:

(1) located within a Community Revitalization Area, or

(2) the project is funded in part with an award from the California Department of Housing and Community Development pursuant to a notice of funding availability issued on or before December 31, 2020.

In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the CTCAC regulations.

(D) 9 points if the project does not receive points pursuant to Section 5230(j)(1)(A) through (C) and receives the maximum points for exceeding minimum income restrictions pursuant to subdivision (d). In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the CTCAC regulations.

(2) For purposes of subparagraphs (A) to (C), a project located in a resource area designated on the CTCAC/HCD Opportunity Area Map as “Missing/Insufficient Data” shall be considered to have the designation of the adjacent resource area that shares the longest common boundary with the resource area in which the project is located.

(k) Service Amenities (10 points maximum). A project shall receive the number of points for which it is eligible pursuant to Section 10325(c)(4)(B) of the CTCAC regulations, except that projects not meeting one of the housing types specified in 10325(g) of the CTCAC regulations shall be able to choose the services provided without regard to the housing type conditions within the service amenity categories.

(l) Cost Containment (12 points maximum). A project shall receive 1 point for each full percent that the project's eligible basis is less than the project's CDLAC adjusted threshold basis limit, except that a New Construction Project that receives points as a Large Family, or Special Needs project pursuant to the

conditions specified in Section 5230(j)(1)(A)) and is located in a High or Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map shall receive 2 points for each full percent that the project's eligible basis is less than the project's CDLAC adjusted threshold basis limit. For purposes of this subdivision, a project's CDLAC adjusted threshold basis limit shall be the project's threshold basis limit as determined pursuant to Section 10327(c)(5) of the CTCAC regulations, except that the increase for deeper targeting pursuant to Section 10327(c)(5)(C) of the CTCAC regulations shall be limited to 80%.

(m) Negative Points (no maximum).

(1) The Committee may deduct points for an Application involving a Project Sponsor that has been or is a Related Party to a Project Sponsor (i.e. in the ownership structure) for which an Allocation has been awarded as follows:

(A) Ten (10) points may be deducted for each failure to fully utilize the leveraged soft resources for which points were awarded in connection with the prior Allocation, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control or the amount not utilized is not material, or is the result of voluntarily returning leveraged soft resources due to the project being over-sourced, or if a change in federal or state law provides additional financial resources that result in a reduction in leveraged soft resources. This deduction may be assessed against the Project Sponsor for a period of up to two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(B) Ten (10) points may be deducted for each failure to issue Bonds that results in the full amount of the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction may be assessed against the Project Sponsor for a period of up to two (2) succeeding years (10 points each year) following the year Allocation was awarded.

(C) Ten (10) points may be deducted for each failure to spend the proceeds of Bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control, the amount not spent is not material or is consistent with the requirements of Section 5052(b), or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction may be assessed against the Project Sponsor for a period of up to three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

(D) Ten (10) points may be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction may be assessed for a period of up to three (3) calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.

(2) Where CTCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.

(3) Where CTCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.

(4) Multiple or repeated failures of paragraph (1) may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5231. Ranking.

After all of Applications for Qualified Residential Rental Projects are evaluated pursuant to section 5230, the Applications will be ranked and may be awarded an Allocation as follows:

(a) Applications for ~~Mixed Income~~Rural Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for ~~Mixed Income~~Rural Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the ~~Mixed Income~~Rural Pool. Applications for ~~Mixed Income~~Rural Projects not receiving an Allocation will not be eligible for consideration for an Allocation under subdivisions (b) ~~or~~ (c) or (e) of this section.

(b) Applications for ~~Rural~~Preservation Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for ~~Rural~~Preservation Projects awarded the greatest number of points after factoring in the tiebreaker pursuant to 5231(g) as applicable shall be awarded an Allocation from the ~~Rural~~Preservation Project Pool. Applications for

~~Rural Preservation~~ Projects not receiving an Allocation pursuant to this subdivision ~~are~~will not be eligible for consideration for an Allocation under subdivision (a), (c) or (e) of this section.

(c) Applications for Other Rehabilitation Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Other Rehabilitation Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the Other Rehabilitation Pool. Applications for Other Rehabilitation Projects not receiving an Allocation pursuant to this subdivision will not be eligible for consideration for an Allocation under subdivisions (a), (b) or (e) of this section.

(d) Applications for BIPOC Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for BIPOC Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the BIPOC Pool. Applications for BIPOC Projects not receiving an Allocation pursuant to this subdivision shall be eligible for consideration for an Allocation under subdivisions (a), (b), (c), and (e) of this section.

(e) Applications for Qualified Residential Rental Projects that are New Construction Projects, exclusive of Rural Projects will then be ranked together. Applications receiving the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the New Construction Pool in the following manner.

(1)(A) Set Aside application selection. Beginning with the top ranked application from the Homeless Set Aside, subject to the conditions in Section 5231(e)(1)(B), followed by the Extremely Low/Very Low Income Set Aside, and the Mixed Income Set Aside, the highest scoring applications in each Set Aside shall be awarded an Allocation pursuant to the procedures in Section 5231(f). A project that meets the criteria of both the Homeless Set Aside and the Extremely Low/Very Low Income Set Aside shall be eligible for an allocation from either Set Aside. All New Construction Projects, exclusive of Rural Projects, that do not receive an allocation from a Set Aside shall be eligible for an allocation from their respective geographic region pursuant to paragraph (2). (B) For purposes of the Homeless Set Aside only, applications for projects in which 100% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTCAC regulations shall be awarded an Allocation prior to any other application eligible for the Homeless Set Aside provided that such projects earn at least 95% (rounded down to the nearest whole number) of the maximum available points pursuant to Section 5230.

(2) Geographic region application selection. Bonds available in the New Construction Pool that are not reserved to a Set Aside shall be allocated to the highest ranking applications according to the geographic allocation described in Section 5022. Projects receiving an allocation in the Rural, Preservation, Other Rehabilitation, or BIPOC Pools or in the Homeless, Extremely Low/Very Low Income, and Mixed Income Set Asides shall not be counted towards the geographic apportionments.

(3) In the final allocation round of the year, any bonds remaining in any QRRP pool, Set Aside or geographic region shall be allocated to the highest ranking New Construction Project or Projects, exclusive of Rural Projects. Any such amounts shall not be added to the respective QRRP pool, Set Aside, or geographic region in the following year, nor shall any allocations pursuant to this paragraph be subtracted from the geographic allocations in the following year.

(4) At the last allocation meeting of the year, the Committee shall establish a waiting list of new Construction Projects, exclusive of Rural Projects, that have not received an allocation in the final allocation round, ordered from highest to lowest ranking. In the event that allocations are returned after the final allocation meeting and prior to the end of the calendar year, the Executive Director may allocate bonds to projects on the waiting list in order.

(f) If the last project allocation in a Pool, Set Aside or geographic region requires more than the bonds remaining in that Pool, Set Aside or geographic region, such overages will be subtracted from that Pool, Set Aside or geographic region in determining the amount available in the Pool, Set Aside or geographic region for the subsequent allocation round. In no case will the last project to be allocated in a Pool, Set Aside or geographic region receive an Allocation unless at least 80% of the requested Allocation for that project is remaining in that Pool, Set Aside or geographic region for that round. No project that is unable to satisfy this condition shall be skipped in favor of awarding a project that meets this condition. Notwithstanding the foregoing, when the first or next

highest-ranking project does not meet the 80% rule above, that project, as well as any subsequent projects in rank order that also do not meet the 80% rule, may be skipped over to the next highest ranking project that meets the 80% rule. If bonds within a Pool, Set Aside or geographic region remain unallocated at the end of an allocation round, they will be added to the subsequent round amounts in the same Pool, Set Aside or geographic region. In the final allocation round of the year, the allocations within a Pool, Set Aside or geographic region shall not exceed the amount of bonds available in the Pool, Set Aside or geographic region.

(g) If two or more Applications are awarded the same total number of points, these Applications will be ranked according to the lowest amount of cost-adjusted Bond and State Credit Allocation per bedroom-adjusted units targeted at or below 100% AMI, so long as such units are rent restricted and regulated for a period of at least 30 years.

(1) The cost-adjusted Bond and State Credit Allocation shall be calculated by subtracting the product of the unadjusted Bond and State Credit Allocation request and the sum of the statewide basis delta for the county in which the project is located and the higher resource area bonus from the unadjusted Bond and State Credit Allocation request. At least ten days prior to the first application deadline of each calendar year, the Committee shall publish the statewide basis delta for each county, which shall represent the percentage difference between the two-bedroom 4% tax credit threshold basis limit for the county and the median two-bedroom 4% tax credit threshold basis limit for any county in the state as those limits are determined by CTCAC pursuant to Section 10302(rr) of the CTCAC regulations, except that the percentage difference shall not exceed 30%. A New Construction Project that receives points as a Large Family project pursuant to the conditions specified in Section 5230(j)(1)(A) and is located in a High or Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map shall receive a higher resource area bonus equal to 20%. In addition, a project that receives points as a Special Needs project pursuant to Section 5230(g) and in which at least 50% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTCAC regulations shall also receive a bonus equal to 20%.

(2) To calculate a project's per bedroom adjusted units, the Committee shall first multiply the number of units of each bedroom count by the adjustment factor for units of that bedroom count. A project's per bedroom adjusted units shall be the sum of each of these products. The adjustment factors shall be:

(A) .9 for a studio unit.

(B) 1 for a 1-bedroom unit.

(C) 1.25 for a 2-bedroom unit.

(D) 1.5 for a 3-bedroom unit up to no more than 30% of the total units, then such additional units shall be counted as 2-bedroom units

(E) 1.75 for a 4-bedroom or larger unit up to no more than 10% of the total units, then such additional units shall be counted as 2-bedroom units

(3) For Allocations made after the first competitive round in 2022 and beyond, the provisions in this Section (f) shall be amended to a formula which will measure the total amount of State of California investment in the Project relative to the public benefit produced by the Project.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5232. Competitive Application Process Maximum Allocation Amount.

(a) For projects subject to the Competitive Application Process, the Committee will allocate no more than ~~fiftyseventy-five~~ million dollars (~~\$5075,000,000~~) for any proposed Qualified Residential Rental Project. Where a proposed Qualified Residential Rental Project is located within one-fourth (1/4) mile of another Qualified Residential Rental Project involving the same Project Sponsor or a Related Party to the Project Sponsor, the Allocation amounts for the Qualified Residential Rental Projects cannot, in the aggregate, exceed ~~fiftyseventy-five~~ million dollars (~~\$5075,000,000~~) within a calendar year.

(b) The Committee may waive this maximum allocation amount if the Committee determines that the demand for allocation for Qualified Residential Rental Projects is such that the maximum allocation amount is not warranted. An Applicant requesting an Allocation in excess of ~~fiftyseventy-five~~ million dollars (~~\$5075,000,000~~) may seek a waiver from the Committee based on the following factors:

- (1) The Qualified Residential Rental Project qualifies as a ~~Federally Assisted~~-At-Risk Project; or
- (2) Documentation is provided in the Application indicating why a Qualified Residential Rental Project cannot be developed in phases at a ~~fiftyseventy-five~~ million dollars (~~\$5075,000,000~~) level. The documentation must be specific and may include, but is not limited to, a site plan detailing the layout of the subject property, unit mix per stage of the phase, any unique features of the property which inhibits phasing, a description of infrastructure costs, and a cost breakdown by phases.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5233. Allocation Limits.

(a) Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the ~~General and Rural Multifamily QRRP~~ Pools as follows:

Studio and SRO	\$402,500	\$522,000
One bedroom	\$420,000	\$544,000
Two-bedroom	\$447,500	\$580,000
Three-bedroom:	\$492,500	\$638,000

Four or more bedroom

\$517,500

\$671,000

(b) Private Activity Bond allocation awards cannot exceed 55% of the aggregate depreciable basis plus land basis. In determining compliance with this test, CDLAC staff may rely on the legal or tax opinion submitted with the application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 9. Supplemental Allocation

§ 5240. Supplemental Allocation Process.

(a) Requests for Supplemental Allocations may be submitted electronically during any Allocation Round. Staff shall review each request for Supplemental Allocation and make a recommendation to the Committee regarding any possible award of additional Allocation. Awards of Supplemental Allocations shall be memorialized in a Committee Resolution. Notwithstanding section 5241, all requirements imposed on the associated initial project Allocation, including, but not limited to, expiration of Allocation, Bond issuance deadlines, extensions, transfers of Allocation, carry-forward elections and reporting will be equally applicable to Supplemental Allocations.

(b) Requests for Supplemental Allocation submitted during Allocation Rounds conducted under an Open and Competitive Application Process may be made with a Supplemental Allocation Request Letter if the Project has received Allocation within the past thirty six (36) months. Supplemental Allocation Request Letters must be submitted by the Applicant and accompanied by the following requirements:

(1) Posting of a performance deposit pursuant to section 5050.

(2) Payment of a filing fee pursuant to section 5054.

(3) Evidence of the Bond sale structure pursuant to article 6 of chapter 1.

(4) An inducement resolution pursuant to section 5033(b)(4).

~~(5) A TEFRA Resolution pursuant to section 5033(b)(5).~~

~~(6)~~ Updated sources and uses sections of pages 7-9 with associated attachments E, G, and H of the Standard QRRP Application.

~~(7)~~ Verification of Zoning and Local Approvals pursuant to section 5190(b).

~~(8)~~ An updated Attachment Y of the Standard QRRP Application.

(98) An original and copy of the material noted in sub-section (b)(1) through (b)(8) must be submitted electronically to cdlac@treasurer.ca.gov no later than the applicable application deadline.

(c) Supplemental Allocation requests for Projects that have received Allocation more than thirty six (36) months prior or are submitted during a Competitive Application Process must comply with the process for filing a new complete Application pursuant to article 4 of chapter 1 and the appropriate provisions of this chapter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5241. Realignment of Expiration Dates.

Projects awarded a Supplemental Allocation during an Open Application Process for which no Bonds were issued from the original award of Allocation shall have the expiration date of the original award extended to match the expiration of the Supplemental Allocation award. Projects awarded a Supplemental Allocation during a Competitive Application Process for which no Bonds were issued from the original award of Allocation shall have the expiration date of the original award. The Executive Director will have authority to extend the original bond issuance deadline date.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 10. Scattered Site Applications

§ 5250. Application Requirements.

(a) Applications for Scattered Site Projects shall provide all information required for each site. Additional stipulations are as follows:

(1) For acquisition and rehabilitation projects, a Capital Needs Assessment report may combine information for all Project sites in one report.

(2) For new construction projects and acquisition/rehabilitation projects, a Market Study may combine information for all Project sites in one report; however, the Market Study shall have separate Rent Comparability Matrices for each site.

(3) Acquisition/Rehabilitation Projects where each location is subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Sections 5200(a) and 5250(a)(3), a comprehensive market study consistent with 26 U.S.C. Section 42(m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the project must meet at least one of the following requirements:

(A) as certified by a third-party market analyst, the proposed tenant paid rents and income targeting will not exceed one hundred-five percent (105%) of the current rents and targeting and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or

(B) as evidenced by copies of executed contracts, the project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.

(4) Evidence of site control shall be required for each site.

(5) Any maps provided shall include each site.

(b) An Applicant may seek a waiver of the Scattered Site five (5) location limit. A written request describing how the project will benefit from waiver of the location limit must be submitted no later than the application due date for the allocation round in which the Project is seeking an allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5251. Evaluation Criteria.

Each site within an Application for a Scattered Site shall be evaluated individually for points as provided in section 5230. The total points awarded to a Project in any category shall be based on the pro-rata share of total units each site represents. For instance, if only one site meets the threshold for an award of 5 points ~~as provided in 5230(g)~~, and the site represents 40% of total units, the Project shall be awarded two (2) points for this category (40% x 5 points).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 11. Application Process for Projects Assisted by the U.S. Department of Housing and Urban Development

§ 5255. Application Requirements.

(a) A CDLAC Forward Commitment letter may be granted in lieu of an award of allocation until the Applicant receives the HUD Firm Commitment letter for the Project. A complete Open Qualified Residential Rental Pool Application may be submitted when the Project meets the following requirements:

(1) Applications must meet the requirements of a Qualified Residential Rental Project, as described in Chapter 2.

(2) Applications may be submitted at any time with an expected staff review period of at least thirty (30) days.

(3) The Applicant must disclose upon application that the Project is a FHA financed development.

(4) In lieu of a HUD Firm Commitment letter, a MAP Lender commitment letter outlining the FHA financing must accompany the Application.

(5) All awards of allocation following a CDLAC Forward Commitment must occur prior to the last day of the calendar year.

(6) Proof of HUD Firm Commitment Application Submittal will be due within thirty (30) days of CDLAC Forward Commitment Approval.

(b) The Committee shall make an award of allocation for a new Application if the following is submitted no later than the application due date for the allocation round in which the project is seeking an allocation:

(1) a complete Standard QRRP Application and application fee;

(2) a MAP Lender commitment letter outlining the FHA financing; and

(3) a HUD Development Acknowledgement Letter.

(c) All projects requesting an assignment and assumption of an existing HAP Agreement must have submitted their assignment and assumption application to HUD by the CDLAC application date.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5256. Evaluation Criteria.

(a) Applications will be reviewed according to the Multi-Family Housing criteria, as referenced in Chapter 2, Article 8, Section 5230.

(b) Applications meeting the requirements of Chapter 2, Article 8, Section 5230 will be provided a Forward Commitment in lieu of an award of allocation.

(c) Upon receipt of a HUD Firm Commitment letter, CDLAC will present an allocation recommendation to the Committee for formal approval. The CDLAC closing timeframe will commence once the Committee grants the allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code

Article 12. Expiring Projects in Difficult Development Areas

§ 5258. Eligibility Retention.

(a) To confirm that a Qualified Residential Rental Project (QRRP) application is complete in order to retain a project's current year Difficult Development Area/Qualified Census Tract (DDA/QCT) status, an Applicant must submit the following items to CDLAC no later than 16 days prior to the expiration date of the project's DDA status:

- (1) the project's completed Qualified Residential Rental Project application; and
- (2) a written statement identifying the CDLAC allocation round in which the Applicant intends to seek an allocation, pursuant to a CDLAC generated list of eligible allocation rounds for projects in expiring DDA/QCT areas; and
- (3) a written request that CDLAC confirm the Application is complete.

(b) Upon determining that the application is complete, CDLAC will, prior to the expiration of the project's DDA status, provide the Applicant with a letter stating that the application is complete.

(c) The letter described in subsection (b) shall be void and of no effect unless the bond issuances for the project occur within the federally mandated timeframe for bond issuances applicable to projects with expiring DDA statuses.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Chapter 3. Single Family Housing, Article 1. Definitions

§ 5260. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Applicable Median Family Income” means the applicable median family income defined by 26 U.S.C. section 143(f)(4), except that the definition of income contained in subdivision B of 26 U.S.C. section 143(f)(4) shall not apply to Applicants for a Single Family Housing Program.

“Fair Share Allocation Amount” means the amount of Allocation each Local Issuer shall receive pursuant to the Fair Share Basis definition.

“Fair Share Basis” means that each county shall receive a proportionate share of the amount reserved for Local Issuers based on the population of the county relative to the State's total population. Populations will be based on data published by the California State Department of Finance Demographics Unit. Where there is more than one Local Issuer in a county, each Local Issuer shall receive a proportionate share of the county's reservation based on the population of the jurisdictions

served by an Issuer relative to the county's total population, or as agreed upon by the participating Local Issuers.

“Homeownership Assistance” means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must; one, be in a minimum amount of \$7,500 or 3% of the purchase price of the home, whichever is greater; two, be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and three, include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the three (3) year service commitment. Applicants will not be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition. The Committee may establish, or concur with the establishment of, higher assistance limits to ensure program participation in high cost areas.

“MCC Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Mortgage Credit Certificate Program” (revised 03 15 2018), which is hereby incorporated by reference.

“MRB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Single-Family Housing Bond Program” (revised 11 30 2018), which is hereby incorporated by reference.

“Performance Achievement Index” means the percentage of households that participated in a Single Family Housing Program having met the goals set forth in section 5266 expressed as a percentage of the minimum goal committed to by the Applicant. For example, if the number of households earning eighty percent (80%) or less of the Applicable Median family Income of the area consisted of only 38% of the participants in a program, then based on a committed goal of 40%, the Performance Achievement Index would equal 95% (38% divided by 40%).

“Qualified Census Tract” means any census tract that is designated by the Secretary of Housing and Urban Development pursuant to 26 U.S.C. section 42(d)(5)(C).

“VHLP Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Veteran’s Home Loan Program” (revised 03 15 2018), which is hereby incorporated by reference.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 2. Eligibility Requirements

§ 5265. Application Process.

Applications for an Allocation of the Single Family Housing Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an MRB Application, a VHLP Application or an MCC Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5266. Participation Goals.

An Applicant requesting an Allocation for a Single Family Housing Program must commit to the following goals:

(a) A minimum of forty percent (40%) of the participants in the Single Family Housing Program must be households:

(1) Earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; or

(2) Located in a Qualified Census Tract. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. section 143(f)(5) to meet this minimum requirement.

(b) An Applicant that is unable to meet the requirement outlined in subdivision (a) of this section, may request an exemption. However, in no case may less than thirty-five percent (35%) of the participants in the Single Family Housing Program be households:

(1) Earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; or

(2) Located in a Qualified Census Tract. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. section 143(f)(5) to meet this minimum requirement.

(c) To be considered for an exemption an Applicant must submit documentation of the programmatic or economic reasons why the requirement outlined in subdivision (a) of this section cannot be met.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5267. Consistency with Adopted Housing Elements.

(a) The proposed Single Family Housing Program must be consistent with the adopted housing element(s) for the jurisdiction(s) in which the program is to be operated. The California Department of Housing and Community Development must have determined the jurisdiction's adopted housing element to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. In addition, as required under

Section 65400 of the Government Code, the jurisdiction must have submitted an annual progress report to the California Department of Housing and Community Development for the preceding 12-month calendar year.

(b) Applicants requesting Allocation to implement a new Mortgage Credit Certificate Program shall submit the following:

- (1) Copies of the publicly adopted documents required by section 5031(b); and
- (2) Copies of the program or operational manual.

(c) Applicants requesting Allocation for an existing Mortgage Credit Certificate Program shall submit the following:

- (1) A certification that the previously publicly adopted documents required in section 5031(b) are valid and remain in force; or
- (2) Provide copies of newly publicly adopted documents.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5268. Mortgage Revenue Bond Eligibility.

(a) For Mortgage Revenue Bond Programs, in order to be eligible for a new Single Family Housing Program Allocation, the Applicant shall:

- (1) Demonstrate that all proceeds from a bond issuance in the calendar year three (3) years prior to the current year (other than minor amounts not to exceed \$1 million) have been used to finance loans, or; have been refunded on either a short or long term basis so as to be available to finance loans.
- (2) Certify that any remaining Bond proceeds or authority from an Allocation up to two (2) calendar years prior to the current year will be used either before the use of new Allocation or in conjunction with new Allocation in satisfying federal requirements for such prior funds.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5269. Mortgage Credit Certificate Eligibility.

(a) For Mortgage Credit Certificate programs, in order to be eligible for a new Single Family Housing Program Allocation, the Applicant must:

- (1) Demonstrate that all remaining bond authority in the calendar year two (2) years prior to the current year (other than minor amounts not to exceed \$1 million) have been issued to first time home buyers.

(2) Certify that any Mortgage Credit Certificate authority remaining from the year prior to the current year will be used before the use of new Mortgage Credit Certificate authority.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5270. Exceptions to Minimum Requirements.

The Committee may consider exceptions to the minimum requirements based upon detailed information submitted by the Applicant that meeting these requirements presents an undue financial burden or economic hardship for the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director. With respect to sections 5268 and 5269, to be granted an exception an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1,000,000 from prior years.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5271. Allocation Method.

Applicants for the Single Family Housing Program Pool will be awarded an Allocation on a Fair Share Basis. If a request exceeds an Applicant's Fair Share, additional funding can be provided to the extent allocation is available in the Undesignated Reserve Pool in the allocation year the funding is requested.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5273. Income and Purchase Price Certification.

The Applicant's bond or tax counsel must certify that the income and purchase price limits outlined in the CDLAC application for the program were established in accordance with a methodology authorized by the Internal Revenue Code.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 3. Evaluation Criteria

§ 5275. Minimum Goals.

(a) An Applicant receiving an Allocation for a Single Family Housing Program will be held accountable for achieving the minimum goals that were considered by the Committee in awarding the Allocation. The Committee will monitor on an annual basis the programs awarded an Allocation. An Applicant whose

Single Family Housing Program did not achieve the participation goals set forth in section 5266 in the previous calendar year, will have their Fair Share Allocation Amount reduced subject to following schedule:

<i>Performance Achievement Index</i>	<i>Percentage of Fair Share Allocation Amount</i>
91% -- 100%	100%
81% -- 90%	90%
71% -- 80%	80%
61% -- 70%	70%
0% -- 60%	60%

b) The Committee may consider exceptions to the above schedule of reduced Allocation where the Applicant provides full written documentation of the reasons for the underachievement demonstrating that the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair or to the Executive Director.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 4. Single Family Housing Bonus Pool

§ 5280. Eligibility Requirements.

If the Committee has established a Single Family Housing Program Bonus Pool in accordance with section 5020(c), Applicants may be eligible if the following is demonstrated:

(a) For Mortgage Revenue Bond Programs:

- (1) Demonstrate that Bonds allocated from the current year's Single Family Housing Pool have been issued.
- (2) Certify that proceeds from the current year's allocation are being used to finance loans.
- (3) Justify the need for additional Allocation.

(b) For Mortgage Credit Certificate Programs:

- (1) Demonstrate that Bonds allocated from the current year's Single Family Housing Pool have been converted into Mortgage Credit Certificate authority.
- (2) Certify that Mortgage Credit Certificates are being issued.

(3) Justify the need for additional Allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

§ 5281. Evaluation Criteria.

(a) The following criteria will be used to evaluate and rank all Applications considered for the Single Family Housing Program Bonus Pool. All Applicants for Bonus Pool Allocation are required to meet a minimum score of fifteen (15) points.

(b) Five (5) points will be awarded where a minimum of twenty-five percent (25%) of program participants are households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located.

(c) Five (5) points will be awarded where the program has exceeded its prior year's program performance (based on the most recent yearly data that is available) by ten percent (10%) in assisting households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located.

(d) Five (5) points will be awarded where the program will address a demonstrable imbalance between jobs and housing in the community or neighborhood based on sufficient evidence provided to the Committee.

(e) Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in a Community Revitalization Area.

(f) Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in rural locations to assist units that will be developed under a low-income self-help ownership program or be restricted for sale to low income households engaged in agricultural employment as described in section 7202 of the Health and Safety Code.

(g) Five (5) points will be awarded where the program is augmented with a down payment assistance program provided by the Applicant or by the other participating jurisdictions.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

§ 5282. Allocation Method.

Applicants for the Single Family Housing Bonus Pool will be awarded an Allocation of the Single Family Housing Program Bonus Pool on a Fair Share Basis.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

§ 5283. Excess Bonus Pool Distribution.

(a) If the Committee has established that any portion of the Single Family Housing Program Pool and Single Family Housing Bonus Pool is remaining by the final meeting of the year, this amount will be made available to Local Issuers under the Single Family Housing Bonus Pool regardless of their initial Fair Share Basis limit or amount of Allocation awarded in the current year.

(b) Subsequent to the determination made in subdivision (a) of this section, awards in this round will be based on the pro-rata population of the jurisdictions served by the Applicant relative to the total population served by the winning Applicants, but shall not exceed the amount requested in the Application.

(c) If the total amount requested by all Applicants as determined in subdivision (b) of this section is less than the amount available as determined in subdivision (a) of this section, and there are Applicants whose pro-rata portion is less than their request, the Committee will consider distributing the excess up to the full amount requested.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

Article 5. Veterans Home Loan Program

§ 5290. Veterans Home Loan Program (VHLP).

The Veterans Home Loan Program will utilize Mortgage Revenue Bonds to assist eligible California veterans with advantageous first mortgages that are at a minimum commensurate with similar state administered Single Family Housing Programs with respect to interest rates and Homeownership Assistance. Allocations will be made on the condition that the entire Allocation will be used to provide below market interest rate mortgages to California veterans.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(a), Government Code.

§ 5291. VHLP Reporting Requirements.

An Applicant receiving an Allocation for a Veterans Home Loan Program shall be responsible for submitting an annual report of program activity to the Committee. The format for the annual report is outlined in Attachment M of the VHLP Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(a), Government Code.

Chapter 4. Extra Credit Teacher Home Purchase Program, Article 1. Definitions

§ 5300. Definitions.

In addition to the definitions set forth in Government Code sections 8869.82 and 8869.84(g); and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Academic Performance Index” or “API” means the index created by the Public Schools Accountability Act of 1999 to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socio-economically disadvantaged subgroups within schools (Education Code 52052).

“Eligible Administrator” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:

- Administrative Services Credential Administrative Services Credential (Examination)
- Standard Supervision Credential Standard Administration Credential
- General Elementary School Administration Credential General Elementary School Supervision Credential
- General Secondary School Administration Credential General Secondary School Supervision Credential
- General Administration Credential General Supervision Credential
- The Supervision Credential General School Principal or Supervisor Credential

“Eligible Classified Employee” means an employee of a school district employed in a position not requiring certification qualifications and who provides administration or service at a High Priority School.

“Eligible Staff Member” means any person who holds one of the following credentials issued by the California Commission on Teaching Credentialing:

- School Nurse Credential
- Clinical or Rehabilitation Service Credential
- Pupil Personnel Services Credential (e.g. School Counseling, School Social Work, School Psychology and Child Welfare and Attendance)
- Library Media Teacher Service Credential
- Designated Subjects Vocational Education Teaching Credential

“Eligible Teacher” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:

- Single Subject Teaching Credential
- Multiple Subject Teaching Credential
- Specialist Instruction Credential in Special Education
- Education Specialist Instruction Credential
- Standard Elementary Teaching Credential
- Standard Secondary Teaching Credential
- Standard Early Childhood Education Teaching Credential
- Standard Restricted Special Education Teaching Credential
- General Kindergarten-Primary Teaching Credential
- General Junior High Teaching Credential
- General Elementary Teaching Credential
- Special Secondary Teaching Credential in Art
- General Secondary Teaching Credential
- Special Secondary Teaching Credential in Business Ed
- Special Credential for Teaching Exceptional Children
- Special Secondary Teaching Credential in Homemaking
- Special Secondary Credential for Teaching Lip Reading
- Special Secondary Credential for Teaching the Blind
- Special Secondary Limited Teaching Credential in Music
- Special Secondary Credential for Teaching the Partially Sighted Child
- Special Secondary Credential for Teaching Industrial Arts
- Special Secondary Teaching Credential in Speech Arts
- Special Secondary Teaching Credential in Music
- Special Secondary Credential for Teaching the Mentally Retarded
- Special Secondary Credential for Teaching Credential Limited in Agriculture
- Special Secondary Teaching Credential in Correction of Speech Defects
- Special Secondary Teaching Credential in Physical Ed.

“ETCHP Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for an Extra Teacher Credit Home Purchase Program” (revised 11-16-16), which is hereby incorporated by reference.

“Extra Credit Teacher Home Purchase Program Eligibility Certificate” means the certification to be completed and submitted by the employing school district, County Office of Education or local Board of Education that certifies to all of the following: The Program Participant is an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member; the Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or dismissal of the Program Participant; the entity completing the certificate has verified with the California Commission on Teacher Credentialing that the credential of the Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or revocation of the credential of the Program Participant; and the personnel file of the Program Participant reflects that he or she has not been dismissed from employment with any school or school district for any reason, and that he or she has not been the subject of a disciplinary suspension that has been upheld.

“High Priority School” means a California K-12 public school ranked in the bottom 50% of all schools based on the most recent Academic Performance Index, i.e. schools receiving an API Statewide Ranking of 1, 2, 3, 4 or 5.

“Homeownership Assistance” means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must: Be in a minimum amount of \$7,500 or 3% of the purchase price of the home, whichever is greater; be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the three (3) year service commitment. Applicants will not be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition. The Committee may establish, or concur with the establishment of, higher assistance limits to ensure program participation in high cost areas.

“National Board Certification” means certification from the National Board for Professional Teaching Standards based upon successful completion of a voluntary assessment program covering a variety of subject areas and student developmental levels.

“Program Participant” means an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member who receives a Mortgage Credit Certificate or a loan funded by Mortgage Revenue Bonds from an Issuer receiving an Allocation from the Extra Credit Teacher Home Purchase Program Pool.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(g), Government Code.

Article 2. Eligibility Requirements

§ 5310. Application Process.

Applications for an Allocation of the Extra Credit Teacher Home Purchase Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an ECTHP Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

§ 5311. Application of Standards.

Issuers of Mortgage Revenue Bonds or Mortgage Credit Certificates pursuant to this chapter may apply these eligibility standards to borrowers without regard to the date of receipt of Allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

§ 5312. Applicant Eligibility.

An Applicant requesting an Allocation from the Extra Credit Teacher Home Purchase Program Pool must be an approved Issuer of Mortgage Credit Certificates or Mortgage Revenue Bonds and must propose an Extra Credit Teacher Home Purchase Program whereby Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds will be made available to Eligible Teachers, Eligible Administrators, Eligible Classified Employees, and Eligible Staff Members. Issuers of Mortgage Credit Certificates and Mortgage Revenue Bonds may apply jointly.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code

§ 5313. Program Goals.

The Extra Credit Teacher Home Purchase Program proposed by the Applicant must be for the purpose of recruiting and retaining Eligible Teachers, Eligible Administrators, and Eligible Classified Employees in High Priority Schools, and the Applicant must commit to and describe its plan to promote, publicize and market the program in conjunction with school district(s) and county office(s) of education to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

§ 5314. Program Provisions.

The Extra Credit Teacher Home Purchase Program proposed by the Applicant must, at a minimum, include all of the following:

- (a) A specific plan that gives priority to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees working in High Priority Schools ranked 1, 2 or 3 in the API rankings.
- (b) A provision that Eligible Teachers, Eligible Administrators, and Eligible Classified Employees include such individuals who are assigned to a school district but provide administration or service to at least one High Priority School for the length of the service commitment.
- (c) A provision restricting the program to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees who agree, through a written service commitment, to teach, provide administration or service in a High Priority School for a minimum of three (3) years continuously from the date the Mortgage Credit Certificate or the loan funded by Mortgage Revenue Bonds is awarded to the Program Participant, and for whom an Extra Credit Teacher Home Purchase Program Eligibility Certificate has been completed and submitted by a duly authorized representative of the employing school district or county office of education.
- (d) A written service commitment of the Program Participant. Program Participants are required to certify to the Applicant when they have fully performed the service commitment or request to be excused from the service commitment pursuant to subdivision (e) of this section. Early pay off of a loan does not constitute an excuse from the service commitment. Certifications of service commitment must be signed by either:
 - (1) A duly authorized representative of the employing school district or county office of education; or
 - (2) The Program Participant under penalty of perjury.
- (e) A provision by which Program Participants will be excused from their service commitment in the following cases:
 - (1) The Program Participant has been continuously employed at the same school since the date of the service commitment, but the school is no longer considered a High Priority School;
 - (2) The Program Participant's departure from the High Priority School was involuntary, and was not the result of disciplinary action, and she/he accepts another eligible position at a California K-12 public school within one year of the date of departure;
 - (3) Hardship cases, including but not limited to serious illness, death and divorce;
 - (4) Occurrences covered under the Family Medical Leave Act or the California Family Rights Act;
 - (5) Other exceptions as proposed by the Applicant in the Application and approved by the Committee. The Committee may delegate this authority to the Chair or the Executive Director.
- (f) A priority system such that:

(1) In the event an Applicant's program is oversubscribed, the Applicant must provide assistance to Eligible Teachers and Eligible Administrators before providing such assistance to other eligible Program Participants.

(2) Eligible Teachers with National Board Certification shall have priority over Eligible Teachers without such certification.

(3) Applicants may determine how each priority will be implemented (e.g., a program set-aside) and shall indicate such in the Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

Article 3. Evaluation Criteria

§ 5320. Evaluation Criteria.

Upon a determination that an Application meets the minimum requirements pursuant to article 2 of this chapter, Applications will be evaluated based on the following criteria:

(a) The amount of the Homeownership Assistance to be provided and the percentage of Program Participants to whom it will be provided.

(b) The strength of the Applicant's plan to publicize, promote and market the Extra Credit Teacher Home Purchase Program to School Districts, County Offices of Education, Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.

(c) The extent to which Applicants show the greatest need within the Applicant's jurisdiction to recruit and retain Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.

(d) The Applicant's past performance, if any, in using past Allocations from the Extra Credit Teacher Home Purchase Program Pool.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

§ 5321. Allocation Amount.

The Committee will determine the amount allocated to each Applicant based upon the evaluation criteria set forth in section 5320, the number of Applicants applying in the Allocation Round, and the amount of allocation available in the Extra Credit Teacher Home Purchase Program Pool. The Committee may, in its sole discretion, allocate a larger portion of the Extra Credit Teacher Home Purchase Program Pool to Applicants who administer statewide Mortgage Credit Certificate and Mortgage Revenue Bond programs.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

Article 4. Reporting Requirements

§ 5330. Specific Reports.

The Applicant shall annually report to the Committee, no later than January 31 of each year, the following information:

- (a) The number of loans or Mortgage Credit Certificates issued aggregated by calendar year;
- (b) The schools at which Program Participants are employed, aggregated by API rank and the percent of non-credentialed teachers employed at the school;
- (c) The number of Program Participants that have paid off their loans prior to the completion of the service commitment;
- (d) The number of Program Participants that successfully complete the service commitment during the prior calendar year;
- (e) The number of Program Participants that are currently serving but have not completed the service commitment;
- (f) The number of Program Participants that were excused during the prior calendar year from the service commitment under section 5314(e);
- (g) The number of Program Participants during the prior calendar year that left a High Priority School without fulfilling their service commitment and who were not eligible for one of the exceptions set forth in section 5314(e);
- (h) The number of Program Participants that have not responded to the Applicant's request for certification of the service commitment; and
- (i) The total amount of assessment, if any, collected pursuant to section 5340.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

Article 5. Noncompliance

§ 5340. Monetary Assessment.

Where a Program Participant fails to fulfill the requirements of the service commitment and has not been excused from the service commitment, the Applicant may recover as an assessment from the Program Participant a monetary amount equal to the lesser of the following:

- (a) One-half (1/2) of the Program Participant's net proceeds from the sale of the related residence; or
- (b) The amount of monetary benefit conferred on the Program Participant as a result of the loan or Mortgage Credit Certificate, offset by the amount of any federal recapture, as defined by 26 U.S.C. section 143(m).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.

Chapter 5. Single Family Housing Home Improvement and Rehabilitation Program, Article 1. Definitions

§ 5342. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Home Improvement and Rehabilitation MCC Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Home Improvement and Rehabilitation Mortgage Credit Certificate Program” (revised 03 15 2018), which is hereby incorporated by reference.

“Home Improvement and Rehabilitation MRB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Home Improvement and Rehabilitation Mortgage Revenue Bond Program” (revised 03 15 2018), which is hereby incorporated by reference.

“Qualified Home Improvement Loan” means a loan as defined by Title 26 of U.S.C. section 143(k)(4)

“Qualified Rehabilitation Loan” means a loan as defined by Title 26 of U.S.C. section 143(k)(5)

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 2. Eligibility Requirements

§ 5343. Application Process.

Applications for an Allocation of Home Improvement and Rehabilitation MCCs or MRBs shall be considered in accordance with the provisions of Chapter 1 and the submission of a Home Improvement and Rehabilitation MCC Application or a Home Improvement and Rehabilitation MRB Application. The maximum requested amount of Allocation per Application shall not exceed \$20 million. Should the Application round be deemed non-competitive, the Executive Director may waive this cap.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5344. Minimum Requirements.

(a) An Applicant requesting an Allocation for a Home Improvement and Rehabilitation Program must commit to a minimum of twenty percent (20%) of the participants in the Home Improvement and Rehabilitation Program being:

- (1) Households located in a Qualified Census Tract; or

(2) Households earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. section 143(f)(5) to meet this minimum requirement,

(b) For Home Improvement and Rehabilitation Mortgage Revenue Bond Programs, in order to be eligible for a new Home Improvement and Rehabilitation Program Allocation, the Applicant shall:

(1) Demonstrate that all proceeds from a Bond issuance in the calendar year three (3) years prior to the current year (other than amounts that are insufficient to fund one Home Improvement and Rehabilitation loan) have been used to finance loans, or; have been refunded on either a short or long term basis so as to be available to finance loans.

(2) Certify that any remaining Bond proceeds or authority from an Allocation up to two (2) calendar years prior to the current year will be used either before the use of new Allocation or in conjunction with new Allocation in satisfying federal requirements for such prior funds.

(c) For Home Improvement and Rehabilitation Mortgage Credit Certificate programs, in order to be eligible for a new Home Improvement and Rehabilitation Program Allocation, the Applicant must:

(1) Demonstrate that all remaining Bond authority in the calendar year two (2) years prior to the current year (other than amounts that are insufficient to fund one Home Improvement and Rehabilitation MCC) have been issued.

(2) Certify that any Mortgage Credit Certificate authority remaining from the year prior to the current year will be used before the use of new Home Improvement and Rehabilitation Mortgage Credit Certificate authority.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5345. Exceptions to Minimum Requirements.

With respect to subsections (b) and (c) of section 5344, the Committee may consider exceptions to the minimum requirements based upon detailed information submitted by the Applicant stating the reasons for the underachievement and explaining why the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director. To be granted an exception, an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1 million from prior years.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 3. Evaluation Criteria

§ 5346. Past Performance.

Applicants must demonstrate that Home Improvement and Rehabilitation Mortgage Credit Certificate Program Allocation from the past year has been used or are designated to be used to issue Mortgage Credit Certificates.

The Committee may consider exceptions to the Past Performance requirement based upon detailed information submitted by the Applicant stating the reasons for the underachievement and explaining why the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director. To be granted an exception, an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1 million from prior years.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5347. Potential Public Benefits Calculation.

For each Allocation round, programs will be evaluated and ranked based on how effectively they will achieve the following public benefits relative to their competitor's performance: Serving the maximum number of households earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; ensuring the lowest interest rates to borrowers; and serving the maximum number of households with the allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 4. Reporting Requirements

§ 5348. Program Performance Monitoring.

Applicants will be required to track the information identified in Exhibits 1 and 2 of their applicable Home Improvement and Rehabilitation MCC or MRB Application and report that information to the Committee by March 1 of each calendar year.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Chapter 6. Small-Issue Industrial Development Bond Program, Article 1. Definitions

§ 5350. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“ANSI” means the American National Standards Institute which facilitates the development of American National Standards by accrediting standards developing organizations for a wide variety of products, manufacturing and industrial processes, and distribution processes for goods, services and energy.

“Forest Stewardship Council” means the independent, non-governmental, not-for-profit organization established in 1993 to promote the responsible management of the world's forests in cooperation with the ISO.

“IDB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Small-Issue Industrial Development Bond Project” (revised 11-30-2018), which is hereby incorporated by reference.

“ISO” means the International Organization of Standardization

“Job Retention” means full time jobs that will be retained in California by the Project Sponsor. The company must be actively seeking to relocate jobs out of the state; forced to eliminate jobs in order to remain in operation; at risk of closing their local operations; or be acquired prior to closing or relocating under new ownership that commits to maintain company operations and retain existing jobs. The number of jobs retained shall be calculated on the number of full time jobs that are on the company payroll at the time of Application. The Job Retention period will begin upon issuance of the Bonds and must be met within two (2) years after issuance of Bonds. The Job Retention requirement may be monitored by CIEDB utilizing Employment Development Department job retention statistics.

“Median Hourly Production Occupation Wage” means the median hourly wage for production occupations as defined by the U.S. Bureau of Labor Statistics.

“Qualified Retirement Plan” means a retirement satisfying the requirements of 26 U.S.C. sections 401(a) or 403(a) and the Employee Retirement Income Security Act of 1974 (ERISA).

“Renewable Energy” means any device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies pursuant to California Public Resources Code 26003(i)(1):

- Biomass
- Solar thermal.

- Photovoltaic.
- Wind.
- Geothermal.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 2. Applications

§ 5360. Application Process.

Applications for an Allocation of the Small-Issue Industrial Development Bond Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an IDB Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 3. Evaluation Criteria

§ 5369. Minimum Requirements.

Applications for a Small-Issue Industrial Development Bond Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Applicants are not required to have obtained ministerial approvals at the time of Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5370. Evaluation Criteria.

(a) Community Economic Need (20 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the California Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Small-Issue Industrial Development Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located will be averaged, divided by the statewide poverty rate and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Three (3) points to a Project located in an area in which the poverty rate is over one-hundred ten percent (110%) but not more than one-hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas may be used.

(4) If a Project is located in an area for which there is no available economic data, the Small Issue Industrial Development Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Small Issue Industrial Development Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.

(b) Jobs Creation and Retention (45 points maximum). Applications will be awarded points for Projects that create and/or retain jobs according to the following:

(1) Job Creation (35 points maximum). Applications will be eligible for Job Creation points when full-time new jobs have been created pursuant to the Job Retention definition provided in section 5350. Based on the Project Sponsor's representation that they will make their best efforts to increase the number of direct, full-time employees at the Project site within two (2) years of Project completion, points will be awarded as follows:

(A) Thirty-five (35) points to Projects creating a 31% or more increase in the manufacturer's workforce.

(B) Twenty (20) points to Projects creating a 21% to 30% increase in the manufacturer's workforce.

(C) Ten (10) points to Projects creating a 10% to 20% increase in the manufacturer's workforce.

(2) Job Retention (10 points maximum). Applications will be eligible for Job Retention points when jobs have been retained pursuant to the Job Creation definition as provided in section 5000. To qualify for Job Retention points, the jobs retained must be those that would be lost in the absence of the requested Allocation. Points will be awarded provided the following:

(A) A certification that the Project Sponsor will retain the specified jobs for a two (2) year period after the issuance of Bonds. The Committee may verify jobs retained at any time during the two (2) year period, or

(B) A verification letter from the appropriate local governmental entity stating that the Project Sponsor's business is at risk of closing local operations, and that the requested Allocation and retention of the Project Sponsor's business is an integral part of its plan to maintain the health of the local economy and retain employment, or

(C) Written evidence from the Project Sponsor that the company within two (2) years prior to the submission of an Application for tax-exempt IDB financing, engaged a site selector to find possible relocation sites.

(c) Workforce and Economic Development (15 points maximum)

(1) Welfare-to-Work (5 points maximum). Points will be awarded where the Project Sponsor proposes or is participating in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or that participation is occurring that includes, at minimum, the manner and extent of the participation.

(2) Workforce Training (5 points maximum). To qualify for points in this category, the Project Sponsor must provide copies of official documentation of its current or pending participation. Such documentation shall include copy of an executed contract between the Project Sponsor and the provider; or a formal letter from the provider addressed to the Project Sponsor acknowledging the Project Sponsor's current or pending participation in the program. Points will be awarded where the Project Sponsor participates in one or more training, retraining or apprenticeship programs offered by any of the following state agencies, certified training facilities or postsecondary institutions:

(A) The California Employment Training Panel;

(B) The California Department of Industrial Relations;

(C) A community college;

(D) University;

(E) Adult school; or

(F) A regional occupational program or private training agency approved by the California Bureau of Private Postsecondary and Vocational Education.

(3) Exports Outside of California (5 points maximum). To qualify for points in this category, an officer or owner of the Project Sponsor must certify in writing on Project Sponsor letterhead that it exports, or in the case of the construction of a new manufacturing facility at a new Project site, anticipates that it will export as part of its business plan as follows:

- (A) In excess of 30% of products manufactured at the Project site (5 points);
- (B) Over 20% and up to 30% of its products manufactured at the Project site (3 points);
- (C) Up to 20% of its products manufactured at the Project site (2 points);

(d) Payment of Employee and Dependent Medical, Dental, Vision and Retirement Costs (20 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:

(1) Health, Dental and Vision (15 points maximum).

(A) Fifteen (15) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$330 or more per month toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee.

(B) Ten (10) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$220 or more, but less than \$330, per month toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee.

(C) Five (5) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$110, but less than \$220, per month toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee.

(2) Retirement Plans (5 points maximum). To qualify for points in this category, the Project Sponsor must provide specific documentation to show it contributes to a Qualified Retirement Plan or other retirement account for each participating employee and must confirm that it will offer such benefits to employees hired in accordance with the representations made pursuant to the Job Creation definition as provided in section 5000.

(e) Average Hourly Wage (10 points maximum). Applications will be awarded points based on a comparison of the Project Wage to the most recent Job Wage. The Project Wage will be divided by the Job Wage and multiplied by one-hundred (100). Points will be awarded as:

(1) Ten (10) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage.

(2) Six (6) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage.

(3) Three (3) points for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.

(f) Environmental Stewardship (27 points maximum).

(1) Land Use (3 points maximum). Points will be awarded to Projects that involve the reuse of the following:

(A) Vacant or abandoned buildings; or

(B) Vacant or abandoned land with developed infrastructure, excluding land where the immediate prior use was agricultural, open space or other similar use.

(2) Public Transportation (4 points maximum).

(A) In areas where there is no public transportation system, three (3) points will be awarded to Applications where the Project Sponsor has an adopted transportation system management plan, or;

(B) Four (4) points will be awarded to Projects that are located within one-quarter (1/4) of a mile of a regular route stop within a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter (1/4) mile radius of a Public Transportation Corridor and where the Project Sponsor provides written evidence of offering public transit subsidies for employees at the Project site.

(3) Energy Efficiency/ Renewable Energy (10 points maximum).

(A) Five (5) points will be awarded to Projects that utilize designs, materials or techniques to reduce energy usage by at least fifteen (15%) on the part of the Project Sponsor compared to the following benchmarks:

(i) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; or

(ii) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Project Sponsor. Evidence should include a utility company letter indicating that energy savings are Projected or a written certification from an energy efficiency consultant.

(B) Five (5) points will be awarded to Projects that involve the installation and use of Renewable Energy equipment to power the production process. The Project Sponsor must provide written documentation from its utility company which specifies the installation or planned installation of Renewable Energy equipment.

(4) Manufacturer of Certified Environmentally Preferable Products (5 points maximum). Points will be awarded to Projects which produce or will produce environmentally friendly products certified by an ANSI accredited standards developing organization (e.g., Green Seal, Inc.) or by a widely-recognized and reputable organization accredited as a certifier by an ANSI accredited standards developing organization or by a Forest Stewardship Council (e.g., Scientific

Certification Systems, Inc.). The Project Sponsor must provide the current, official documentation of the certification and must provide the percentage of the overall output that is comprised of the certified products.

(5) U.S. Green Building Council (USGBC) LEED-Certified Manufacturing Facility (5 points maximum). Points will be awarded to Projects for which Bond proceeds will be used to construct U.S. Green Building Council (USGBC) LEED-certified facilities, or to make improvements to existing facilities that will qualify it for a LEED certificate. The Project Sponsor must provide either:

(A) Official documentation of its registration (including evidence of payment of the registration fee) with the USGBC to obtain LEED certification in cases where the Project involves the construction of a new facility and construction has not begun or is not complete at the time of Application; or

(B) Official documentation of receipt of a Silver, Gold or Platinum LEED Certification in cases where construction or improvements and the certification process are completed.

(g) Leverage (5 points maximum). Points will be awarded to Projects for which Taxable Debt, a taxable loan, and/or private funds or equity will supplement the use of the tax-exempt Bond financing. The Project Sponsor must provide overall Project costs and certify that one or more of these other sources of financing will be used for Projects expenses with points awarded for achieving the following levels:

(1) Five (5) points for Projects where greater than twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.

(2) Three (3) points for Projects where greater than ten percent (10%) and up to twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.

(h) Ranking Applications. Where two or more Applications are awarded the same number of points pursuant to this section, the Executive Director will divide the Allocation amount requested by each such Application by the number of jobs created by the related Project, and will rank the Applications based on the lowest amount of requested Allocation per job(s) created.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5371. Enterprise/Empowerment Zone Facility Bond Projects.

For a proposed Enterprise/ Empowerment Zone Facility Bond Project for which the Applicant has determined that Job Creation is the Project's major public benefit, Applications shall be considered pursuant to this chapter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Chapter 7. Exempt Facility Bond Program, Article 1. Definitions

“California Environmental Quality Act Review Process” means a process of environmental review as defined by California Public Resources Code sections 21000, et seq.

“EXF Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for an Exempt Facility Project” (revised 03-15-2018), which is hereby incorporated by reference.

“First Tier Business” means (1) a business that (a) is primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste, (b) is a privately-held or employee-owned entity whose ownership interests are not available to members of the public, and (c) has fewer than 3,000 employees (together with affiliates), based on the average employees per pay period during the most recent twelve (12) months before submittal of an Application; or (2) a business which is not primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste that is classified as a small business under regulations of the California Pollution Control Financing Authority (Title 4, California Code of Regulations, sections 8001 et seq.).

“Regulatory Mandate” means a local, state or federal government mandate including, but not limited to, Public Resources Code, section 40000 et seq., a local public health department notice and order, a Regional Water Quality Control Board issued cease and desist order, or similar directive.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 2. Applications

§ 5410. Application Process.

Applications for an Allocation of the Exempt Facility Project Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an EXF Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5411. Allocations to CPCFA.

The Committee may award an Exempt Facility Allocation to the California Pollution Control Financing Authority (CPCFA) for the purposes of administering the Exempt Facility Project Pool. In awarding the Allocation to CPCFA, the Committee will authorize CPCFA to allocate portions of the award to Project Sponsors for purposes of issuing bonds.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(a), Government Code

Article 3. Eligibility Requirements

§ 5420. Justification of Tax-Exempt Funds.

An Application for an Exempt Facility Project must demonstrate that there will be more public benefits (e.g. a reduction in fees to the consumer) if the Project is financed with tax-exempt Bond financing than with any other means of financing available to the Project Sponsor. At a minimum, documentation must compare tax-exempt Bond financing with other means of financing available to the Project Sponsor, such as conventional bank loans, lines of credit, taxable bonds, and other instruments.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5421. CEQA Requirements.

The Applicant must have commenced the California Environmental Quality Act Review Process at the time of Application, if applicable to the Exempt Facility Project proposed. The notice of determination required under Public Resources Code section 21152 for the Exempt Facility Project must have been published at the time of Application and the statute of limitations as defined by Public Resources Code section 21167 for filing an appeal to the decision must have expired prior to the Allocation Round during which the Application will be considered. If an appeal has been filed, the Executive Director may consider factors including, but not limited to, the following in determining whether this requirement has been met:

- (a) Whether the appellant has posted a bond.
- (b) Whether the appellant has sought injunctive relief.
- (c) The outcome of the litigation at the trial court level.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5422. Permits.

The Applicant must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed ~~Project at the time of Application prior to~~ Committee approval. Applicants are not required to have obtained ministerial approvals at the time of Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5423. Review of New Technologies.

The Committee will perform a formal policy review of Projects other than those submitted by the California Pollution Control Finance Authority that involve technologies unfamiliar to the Committee and/or for industries that have not previously requested an award of Allocation. The Committee may request assistance of other federal, state, and local agencies when conducting this review. The Applicant or Project Sponsor may be asked to provide additional information relevant to the Committee's review. The review process shall result in a written policy concerning the advisability of awarding Allocation based on but not limited to the Project's public benefit, financial feasibility and environmental impact.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 4. Evaluation Criteria

§ 5430. Environmental Goals.

The Application will be reviewed for a determination whether the Project, as a whole, promotes or protects environmental quality in connection with the construction and operation of the Exempt Facility Project. Specific factors include:

- (a) Whether the Exempt Facility Project is designed to minimize impact to or may result in an improvement of air quality.
- (b) Whether the Exempt Facility Project is designed to minimize impact to or may result in an improvement of water quality.
- (c) Whether the Exempt Facility Project will result in an improvement in energy efficiency.
- (d) Whether the Exempt Facility Project will result in the recycling of commodities (glass, aluminum and other marketable materials) and green waste (composting and other organic wastes).
- (e) Whether the Exempt Facility Project achieves its environmental goals on a cost effective basis to the consumer.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5431. Disposal of Solid Waste.

No award of allocation shall be made to any Project that does not comply with all applicable state and federal environmental regulations regarding the safe disposal of solid waste.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5432. Non-Solid Waste Projects.

Applications for Exempt Facility Projects or programs, other than solid waste disposal facilities not otherwise included in these regulations, but eligible for consideration for Qualified Private Activity Bond Allocation as an Exempt Facility Project will be considered pursuant to section 5423. Projects may include, but are not limited to, Bonds issued by a government agency to acquire any property from an investor-owned utility, sewage facilities, facilities for the furnishing of water, facilities for the local furnishing of electric energy or gas, qualified hazardous waste facilities, mass commuting facilities, local district heating or cooling facilities, environmental enhancements of hydroelectric generating facilities, high-speed inter-city rail facilities, and the equipment only purchase programs administered by the California Pollution Control Financing Authority. Applications shall be reviewed on a Project-by-Project basis ~~considering the public benefits proposed~~.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5433. Use of Taxable Debt.

The Application will be reviewed for a determination whether the Project will use taxable bond financing or other forms of financing (not including the minimum cash equity required by the Credit Enhancer) in addition to tax-exempt Bond financing in a manner such that the taxable bond financing or other forms of financing (not including the minimum cash equity required by the Credit Enhancer) will supplant the use of tax-exempt Bond financing.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5434. Local Support.

The Application will be reviewed for a determination of whether documentation submitted by local regulatory agencies or local government demonstrates support of the Project and whether the Project supports and contributes to local waste management policy and planning. Examples of such support may include the identification of the Exempt Facility Project in the applicable elements of an approved county or regional agency integrated waste management plan.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5435. Conversion of Taxable Debt.

The Committee may approve Projects that convert taxable debt to tax exempt debt as economic conditions and annual demand for the State Ceiling allow.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 5. Allocation Procedure

§ 5440. Ranking.

Upon a determination that an Application has met the minimum requirements set forth in article 3 and article 4 of this chapter, Allocations from the Exempt Facility Project Pool will be ranked using the following criteria:

(a) Allocations will be first awarded to Applications in which the Project Sponsor is a First Tier Business, and the Exempt Facility Project proposed by the Application is in direct response to a Regulatory Mandate.

(b) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations under subdivision (a) of this section, the Committee will then consider other Applications in which the Project Sponsor is a First Tier Business, but the proposed Exempt Facility Project is not in response to a Regulatory Mandate.

(c) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations pursuant to subdivisions (a) and (b) of this section, the Committee will then consider Applications in which the Project Sponsor is not a First Tier Business, but the Exempt Facility proposed by the Application is in direct response to a Regulatory Mandate.

(d) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations pursuant to subdivisions (a),(b), or (c) of this section, the Committee will then consider all other Applications for Exempt Facility Projects.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Chapter 8. Student Loan Programs, Article 1. Definitions

§ 5450. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“CEFA” means the California Educational Facilities Authority.

“Direct Lender” means an entity that originates loans directly to eligible borrowers in the state and does not include loans made for the purpose of consolidating or otherwise combining existing student loans.

“Program Sponsor” means a California nonprofit corporation organized pursuant to section 150(d) of the Internal Revenue Code of 1986, as amended, that possesses the authority to directly or indirectly make or finance student loans under the Higher Education Act of 1965, as amended, or a state agency.

“Student Loan Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Student Loan Program” (revised 11-30-18), which is hereby incorporated by reference.

“Student Loan Self Scoring Sheet” means the document provided in the Application for a Student Loan Program.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 2. Eligibility Requirements

§ 5460. Application Process.

Applications for an Allocation of the Student Loan Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of a Student Loan Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5461. Minimum Requirements.

In order to be considered for an Allocation for a Student Loan Program, an Applicant must meet the following minimum requirements:

(a) California Non-profit Status. Must be a California nonprofit corporation organized pursuant to section 150(d) of the Internal Revenue Code of 1986, as amended, that possesses the authority to directly or indirectly make or finance student loans under the Higher Education Act of 1965, as amended, or be a state agency.

(b) CEFA Requirement. Before applying to the Committee for allocation of a portion of the State Ceiling pursuant to Government Code section 8869.82 and 8869.85, an entity that is seeking to issue qualified scholarship funding bonds must first obtain CEFA board approval, pursuant to Title 4, California Code of Regulations, section 9073(a), unless such entity became a qualified scholarship funding corporation as defined in subsection (d) of section 150 of Title 26 of the United States Code prior to January 1, 2006. CEFA may in its discretion determine not to grant approval to any entity regardless of whether the entity meets the threshold criteria as an Eligible Candidate as defined in Title 4, California Code of Regulations, section 9072(b). CEFA will consult and coordinate with the Committee prior to making a final determination.

(c) A portfolio itemizing the total dollar amount and corresponding percentage of student loans originated by the Applicant which assist financially needy borrowers in California. The data relied upon may be direct or derived from sources deemed by the Executive Director to be accurate.

(d) A proposal of interest rates and other discounts (time period is the next academic year commencing July 1 following the award of Allocation), a description and dollar amount of discounts (i.e. interest rate, guarantee fee, origination fee, etc.). Note: Information will be used in analysis of Application in the subsequent year.

(e) A description of marketing activities and status as a lender, anticipated total dollar amount and number of student loans made to two year, four year and other schools, the eligibility requirements for a loan, the benefits to student borrowers, the mechanism(s) or system(s) for the direct delivery of loans to eligible students and any other features unique to the Program.

(f) Demonstrate actual participation in the California Student Loan Market using the STUDENT MARKETMEASURE Standard Report 10D or other sources deemed by the Executive Director to be accurate. Applicant must include information from the most recently completed federal fiscal year with their Application.

(g) Completion of the Student Loan Self-Scoring Sheet to show what they anticipate to receive in allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 3. Evaluation Criteria

§ 5470. Evaluation and Ranking.

The following criteria will be used to evaluate, rank, and award Allocations from the Student Loan Program Pool:

(a) Allocations from the Student Loan Program Pool will be first awarded to Applications in which the Applicant is a Direct Lender and evaluated based on the following criteria:

(1) The total dollar amount and number of student loans originated by the Applicant in California. The data relied upon will be derived from the STUDENT MARKETMEASURE Standard Report 10D or other sources deemed by the Executive Director to be accurate. The time period shall be the most recently completed federal fiscal year. The Applicant's pro-rata share of the Student Loan Program Pool will in part be determined by the total dollar amount of student loans originated in California. The Committee will consider the incongruity between the federal fiscal year and the Allocation Round when evaluating the data.

(2) Proposed total cost of borrowing per borrower for the next academic year. This cost estimate should include origination fees, interest costs, and all other fees or expenses incurred by a borrower.

(3) Previous year average interest rate. Information provided must refer to the time period of the current academic year. In addition, this information must include averages and weighted averages for the following figures for each student loan program:

(A) Statutory interest rate.

(B) Total discount

(C) Discounted interest rate.

For this time period, the Applicant must show the percentage breakdown of usage for all federal student loan programs: Subsidized Stafford, Unsubsidized Stafford, PLUS Parent and PLUS Graduate. This breakdown will be used to determine the weighted averages for the aforementioned figures.

(4) Comparison of Proposed and Actual Interest Rate. The weighted averages will be used to determine whether or not the Applicant was within 25% of the discounted interest rate that they proposed in the prior year. Based on the Committee's assessment, an Applicant could be rewarded and/or penalized for the actual discounted interest rate they provided during the current academic year.

(5) The extent to which the Applicant timely disburses student loans as evidenced by its use of previous and existing allocations from the Committee for direct lender student loan programs. The Committee will evaluate the impact of unused Bond proceeds on the Applicant's present demand for Allocation.

(b) Subsequent to the determination made pursuant to subdivision (a) of this section, Allocation that remains unallocated will then be considered for Applications in which the Applicant is a purchaser of student loans in the secondary market and evaluated based on the following criteria:

(1) The degree to which financially needy students benefit based on an evaluation of the percentage of borrowers with subsidized Stafford loans currently held in portfolio versus borrowers with only unsubsidized Stafford loans.

(2) The use of recycled funds for additional programs that may benefit students other than loan purchase programs, such as grants, new loans, scholarships, student outreach, and borrower benefit programs offered by the Applicant.

(3) The leveraging of the Qualified Private Activity Bond Allocation awarded to the Applicant through the use of taxable bonds and other taxable securities.

(4) The extent to which the Applicant has timely and effectively used previous and existing allocations from the Committee for secondary market loan purchase programs.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Chapter 9. Recovery Zone Economic Development Bond (RZEDB) Program

Article 1. The American Recovery and Reinvestment Act of 2009 (ARRA)

Section 5480. U.S. Treasury Designated Recovery Zone Bond Allocations.

The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities have been excluded: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code; Section 1400U-1, Internal Revenue Code.

Article 2. Application Process for the Recovery Zone Economic Development Bond Reallocation Pool

Section 5490. Application Process.

Allocations for the RZEDB Reallocation Pool shall be considered pursuant to article 4 of chapter 1 and the submission of a complete RZEDB Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

Section 5491. Minimum Threshold Requirements.

Applications for the RZEDB Reallocation Pool will be subject to the following criteria:

(a) The maximum face amount of Bonds which may be reallocated to a Qualified Recovery Zone Bond Issuer shall not exceed ten million dollars (\$10,000,000) per Project. In the event the Allocation Round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum reallocation limit.

(b) One hundred percent (100%) of the available Project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities:

- (1) Capital expenditures paid with respect to property located in such zone;
- (2) Expenditures for public infrastructure and construction of public facilities; and/or
- (3) Expenditures for job training and education programs.

~~(c) A legal memo from bond counsel which states that, based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Counsel must cite relevant federal tax code in their memo.~~

~~(d) The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of reallocation not to exceed ten percent of the original reallocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of Allocation and Project need.~~

~~(e) The Committee may grant an extension of the expiration date of the reallocation of up to thirty (30) calendar days but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.~~

~~(f) A county or large municipality that is only requesting all or a portion of reallocation that was voluntarily waived need only provide a written request and documentation that the Project is ready to issue Recovery Zone Economic Development Bonds prior to the expiration date of December 31, 2010.~~

~~(g) Counties and large municipalities assigned a Recovery Zone Economic Development Bond allocation must designate the area that Bonds will be utilized in a Recovery Zone and shall include the basis for the designation per 26 U.S.C. section 1400-1(b)B. The maximum face amount of Bonds which may be designated by an Issuer shall not exceed the amount of the recovery zone economic development Bond limitation awarded to such Issuer under 26 U.S.C. section 1400U-1.~~

~~(h) The proposed use of Bond proceeds must meet the following requirements per 26 U.S.C. section 1400U-2(b)(1):~~

~~(1) One hundred (100%) percent of the available Project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities;~~

~~(2) Capital expenditures paid with respect to property located within the zone;~~

~~(3) Expenditures for public infrastructure and construction of public facilities.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 869.82(a)(11)(B) and 8869.84(c), Government Code.~~

Section 5492. Minimum Application Requirements.

Applications for the RZEDB Reallocation Pool are exempted from the performance deposit requirement pursuant to section 5033(b)(1) and are subject to the following additional requirements:

(a) Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in article 4 of this chapter.

(b) An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their direct Recovery Zone Bond allocation has been assigned to the Project seeking reallocation. The letter should include the amount and type of Bonds committed, the name of the Project and the name of the department awarding the direct allocation.

(c) A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the Project. This requirement will only be required when the Issuer is an entity other than a municipality, such as a county or a conduit Issuer.

(d) A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZEDB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.

(e) The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the county or municipality.

(f) A request for an award that is Project specific.

(g) An estimate of the job impact that the proposed Project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs that will be created by funding of the proposed Project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed Project.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), and 8869.85(b), Government Code.

~~Section 5493. Reallocation Priority System.~~

~~Upon a determination that an Application has met the requirements set forth in sections 5491 and 5492 above, the following criteria will be used to evaluate, rank and award Allocations from the RZEDB Reallocation Pool:~~

~~(a) Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation Application process. As the Committee's first priority (Tier 1 Projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no Application will be required):~~

~~(1) A letter requesting the amount of allocation and a description of the proposed Project.~~

~~(2) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or inducement resolution.~~

~~(3) A letter of support or approval from the appropriate governing body or elected official's with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality, such as a county or a conduit issuer.~~

~~(4) A Recovery Zone Designation. The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone, and shall include the basis for the designation per U.S.C. 26 section 1400-1U(b). This requirement is demonstrated by a resolution approved by the local government requesting an award of Recovery Zone Economic Development Bond allocation.~~

~~(5) The Qualified Recovery Zone Bond Issuer must provide a legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.~~

~~(6) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for at least the amount of Bonds requested.~~

~~(b) Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 Projects) in the reallocation Application process. The following counties will have second priority: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities will have second priority: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.~~

~~(c) Tier 3 Projects. All other Projects requesting Recovery Zone Economic Development Bonds shall be funded as Tier 3 Projects. Those agencies that fall into the Tier 1 category but request an award of reallocation beyond their waived amount will also fall into this category for their supplemental reallocation request. A complete Application will be required for the supplemental reallocation request.~~

~~(d) Projects that fall into the Tier 1 category will be funded prior to all other Projects. Those Projects that fall into the Tier 2 category will be funded based on relative score of the Project's public benefits and prior to the funding of Tier 3 Projects. All Projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If there is an insufficient amount of Recovery Zone Economic Development Bond that have been Deemed Waived to fund all Allocation requests, CDLAC will establish a waiting list for all unfunded Projects that meet the minimum Application requirements. These Projects will be funded as Allocation is received by CDLAC.~~

~~(e) Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to article 3 of this chapter, the Committee will divide the reallocation request by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested reallocation per job(s) created.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

~~Section 5494. Undersubscribed Allocation.~~

If the initial Recovery Zone Economic Development Bonds Allocation Round is undersubscribed, CDLAC will accept Recovery Zone Economic Development Bond Applications for the next scheduled Committee Allocation meeting, allowing for a minimum of thirty (30) days to review the Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

Article 3. Specific Evaluation Criteria

Section 5500. Evaluation Criteria.

CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the Applicant.

(a) Community Economic Need (30 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Economic Development Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (10 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located,

will be averaged, divided by the statewide poverty rate and multiplied by one hundred (100). The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Five (5) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum). Excluding the Recovery Zone designation, points will be awarded provided the following is demonstrated:

(A) Evidence that the Project is located in a Special Designation Area.

(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.

(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as a census tract or tracts, smaller areas will be used.

(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets intent of the point category for which such information has been submitted.

~~(b) Job Creation (15 points maximum).~~

~~(1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation requested in the Application will be divided by the amount of Job Creation as proposed by the Recovery Zone Economic Development Bond Project. Points will be awarded as follows:~~

~~(A) Fifteen (15) points to Projects creating or retaining one (1) job per \$35,000 or less of Allocation.~~

~~(B) Ten (10) points to Projects creating or retaining one (1) job per \$35,001 to \$50,000 of Allocation.~~

~~(C) Five (5) points to Projects creating or retaining one (1) job per \$50,001 to \$75,000 of Allocation.~~

~~(c) Welfare to Work Plan (5 points maximum). Points will be awarded where the Applicant proposes or is participating in a Welfare to Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.~~

~~(d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:~~

~~(1) Five (5) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.~~

~~(2) Three (3) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.~~

~~(3) One (1) point will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.~~

~~(e) Average Hourly Wage (5 points maximum). Applications will be awarded points based on a comparison of the Project Wage to the most recent Job Wage. The Project Wage will be divided by the Job Wage and multiplied by one hundred (100). Points will be awarded as follows:~~

~~(1) Five (5) points for a Project Wage that is one hundred twenty five percent (125%) or more of the Job Wage.~~

~~(2) Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty five percent (125%) of the Job Wage.~~

~~(3) One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.~~

~~(f) Land Use/Energy Efficiency (25 points maximum).~~

~~(1) Six (6) points will be awarded to Projects that reuse the following:~~

~~(A) Vacant or abandoned buildings; or~~

~~(B) Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space or other similar use).~~

~~(2) Seven (7) points will be awarded to Applications with Projects located within one-quarter (1/4) mile of a Public Transit Corridor evidenced by a scaled-for distance map showing the location of the Project is within a one-quarter (1/4) mile radius of a Public Transportation Corridor. In areas where there is no public transportation system, seven (7) points will be awarded to Applications where the Applicant has an adopted transportation system management plan evidenced by a scaled-for distance map showing the location of the Project is within a one-quarter (1/4) mile radius of the planned Public Transportation Corridor.~~

~~(3) Twelve (12) points will be awarded to Projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the Project's total usage through Renewable Energy sources. Reduced energy usage shall be compared to the following benchmarks:~~

~~(A) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; and~~

~~(B) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Applicant. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.~~

~~(g) Leverage (15 points maximum). Applications will be awarded points where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the Project will include Taxable Debt such that it will supplant the use of tax-exempt Bond financing.~~

~~(1) Ten (10) points for Projects utilizing Taxable Debt or direct RZEDB Allocation greater than twenty percent (20%) of total Project costs.~~

~~(2) Five (5) points for Projects utilizing Taxable Debt or direct RZEDB Allocation greater than ten percent (10%) and up to twenty percent (20%) of total Project costs.~~

~~(3) Three (3) points for Projects utilizing Taxable Debt or direct RZEDB Allocation up to ten percent (10%) of total Project costs.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

Article 4. Reporting Requirements

Section 5510. Reports and Timeframes.

~~(a) CDLAC will require a Report of Action Taken be submitted upon the issuance of Bonds not more than three (3) business days following the issuance of RZEDBs. This report shall include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.~~

~~(b) Counties and large municipalities receiving designated RZEDB allocations must provide CDLAC with a Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.~~

~~(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010:~~

~~(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.~~

~~(2) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality such as a county or a conduit Issuer.~~

~~(3) A written memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.~~

~~(4) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will automatically be Deemed Waived.~~

~~(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15th deadline may have their allocation Deemed Waived.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), 8869.86(c), and 8869.87, Government Code.~~

~~Chapter 10. Recovery Zone Facility Bond (RZFB) Program~~

~~Article 1. The American Recovery and Reinvestment Act of 2009 (ARRA)~~

~~Section 5520. U.S. Treasury Designated Recovery Zone Bond Allocations.~~

~~The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities have been excluded: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

~~Article 2. Application Process for the Recovery Zone Facility Bond Reallocation Pool~~

~~Section 5530. Application Process.~~

Allocations for the RZFB Reallocation Pool shall be considered pursuant section to article 4 of chapter 1 and the submission of a complete RZFB Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

Section 5531. Minimum Threshold Requirements in Addition to the Minimum Application Requirements in Section 5033.

Applications for the Recovery Zone Facility Reallocation Pool will be subject to the following criteria:

(a) The maximum face amount of Bonds which may be re-allocated to a Qualified Recovery Zone Bond Issuer shall not exceed twenty million dollars (\$20,000,000) per Project.

(b) In the event an Allocation Round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum reallocation limit.

(c) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.

(d) The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of reallocation not to exceed ten (10%) percent of the original reallocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of Allocation and Project need.

(e) The Committee may grant an extension of the expiration date of the reallocation of up to thirty (30) calendar days but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.

(f) The Qualified Recovery Zone Bond Issuer is required to estimate the job impact that the proposed Project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs that will be created by funding the Qualified Business Project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed Project.

~~(g) A county or large municipality that is only requesting all or a portion of reallocation that was voluntarily waived need only provide a written request and documentation that the Project is ready to issue the Recovery Zone Facility Bonds prior to the expiration date of December 31, 2010.~~

~~(h) Counties and large municipalities assigned a Recovery Zone Facility Bond allocation must designate the area that Bonds will be utilized in, as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(b).~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 869.82(a)(11)(B) and 8869.84(c), Government Code.~~

Section 5532. Minimum Application Requirements.

~~Applications for the RZFB Reallocation Pool are required to submit the minimum requirements as provided in section 5033(b) in addition to the following requirements:~~

~~(a) Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in article 4 of this chapter.~~

~~(b) An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their Recovery Zone Bond allocation has been assigned to the Project seeking supplemental reallocation. The letter should include the amount and type of Bonds committed, the name of the Project, and the name of the department awarding Allocation.~~

~~(c) A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the Project. This requirement will only be required when the Issuer is an entity other than a municipality, such as the county or a conduit issuer.~~

~~(d) A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZFB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.~~

~~(e) The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(B). This requirement is demonstrated by a resolution approved by the county or municipality.~~

~~(f) A request for an award that is Project specific.~~

~~(g) Adopted TEFRA Resolution.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), and 8869.85(b), Government Code.~~

~~Section 5533. Reallocation Priority System.~~

~~Upon a determination that an Application has met the requirements set forth in section 5531 and 5532 above, the following criteria will be used to evaluate, rank and award Allocations from the RZFB Reallocation Pool.~~

~~(a) Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation Application process. As the committee's first priority (Tier 1 Projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no Application will be required):~~

~~(1) A letter requesting the amount of allocation and a description of the proposed Project.~~

~~(2) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.~~

~~(3) A letter of support or approval of the Project from the municipality's appropriate governing body or bodies or elected official. This requirement will only be required when the Issuer is an entity other than the municipality, such as the county or a conduit Issuer.~~

(4) A Recovery Zone designation. The county or large municipality must designate the area that Bonds will be utilized in, as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the applicable county or large municipality.

(5) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.

(6) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for at least the amount of Bonds requested.

(b) Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 Projects) in the reallocation Application process. The following counties will have second priority: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities will have second priority: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.

(c) Tier 3 Projects. All other Projects requesting Recovery Zone Facility Bonds are funded as Tier 3 Projects. Those agencies that fall into the Tier 1 category but request an award of reallocation beyond their waived amount will also fall into this category for their supplemental reallocation request. A complete Application will be required for the supplemental reallocation request.

(d) Projects that fall into the Tier 1 category will be funded prior to all other Projects. Those Projects that fall into the Tier 2 category will be funded based on relative score of the Project's public benefits and prior to the funding of Tier 3 Projects. All Projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If there is an insufficient amount of Recovery Zone Facility Bonds Deemed Waived to fund all Allocation requests, CDLAC will establish a waiting list for all unfunded Projects that meet the minimum Application requirements. These Projects will be funded as Allocation is received by CDLAC.

(e) Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to article 3 of this chapter the Committee will divide the reallocation request by the number of

jobs created by the respective Project, and rank the Applications based on the lowest amount of requested reallocation per job(s) created.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

~~Section 5534. Undersubscribed Allocation.~~

If the initial RZFB Allocation Round is undersubscribed, CDLAC will accept Applications for the next scheduled committee Allocation meeting, allowing for a minimum of thirty (30) days to review the RZFB Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

Article 3. Specific Evaluation Criteria

~~Section 5540. Evaluation Criteria.~~

CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the applicant.

(a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Facility Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located, will be averaged, divided by the statewide poverty rate and multiplied by one hundred (100). The following points will be awarded accordingly:

(A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Three (3) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum). Excluding the Recovery Zone Area designation, points will be awarded provided the following is demonstrated:

(A) Evidence that the Project is located in a Special Designation Area.

(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.

(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)

~~(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.~~

~~(b) Job Creation (25 points maximum).~~

~~(1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation requested in the Application will be divided by the amount of Job Created proposed by the Recovery Zone Facility Bond Project and verified by the appropriate city or county official. Points will be awarded as follows:~~

~~(A) Twenty-five (25) points to Projects creating one (1) job per \$35,000 or less of Allocation.~~

~~(B) Fifteen (15) points to Projects creating one (1) job per \$35,001 to \$50,000 of Allocation.~~

~~(C) Five (5) points to Projects creating one (1) job per \$50,001 to \$75,000 of Allocation.~~

~~(c) Welfare-to-Work Plan (5 points maximum). Points will be awarded where the Qualified Business proposes or is participating in a Welfare to Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.~~

~~(d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:~~

~~(1) Five (5) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.~~

~~(2) Three (3) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.~~

~~(3) One (1) point will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.~~

~~(e) Average Hourly Wage (5 points maximum). Applications will be awarded up to five (5) points based on a comparison of the Project Wage to the Job Wage. The Project Wage will be divided by the Job Wage and multiplied by (100). Points will be awarded as follows:~~

~~(1) Five (5) points for a Project Wage that is one hundred twenty five percent (125%) or more of the Job Wage;~~

~~(2) Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty five percent (125%) of the Job Wage;~~

~~(3) One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.~~

~~(f) Land Use/Energy Efficiency (20 points maximum)~~

~~(1) Six (6) points will be awarded to Projects that reuse the following:~~

~~(A) Vacant or abandoned buildings; or~~

~~(B) Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space, or other similar use).~~

~~(2) Seven (7) points will be awarded to Applications with Projects located within one quarter (¼) mile of a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter (¼) mile radius of a Public Transportation Corridor. In areas where there is no public transportation system, seven (7) points will be awarded to Applications where the Applicant has an adopted transportation system management plan.~~

~~(3) Seven (7) points will be awarded to Projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the Project's total usage through Renewable Energy sources. Reduced energy usage shall be compared to the following benchmarks:~~

~~(A) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Non-Residential Buildings; and~~

~~(B) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Qualified Business. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.~~

~~(g) Leverage (15 points maximum). Applications will be awarded where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the Project will include Taxable Debt such that it will supplant the use of tax exempt Bond financing.~~

~~(1) Ten (10) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt greater than twenty percent (20%) of total Project costs.~~

~~(2) Five (5) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt greater than ten percent (10%) and up to twenty percent (20%) of total Project costs.~~

~~(3) Three (3) point for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt of up to ten percent (10%) of total Project costs.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

Article 4. Reporting Requirements

Section 5550. Reports and Timeframes.

~~(a) CDLAC will require a Report of Action Taken be submitted upon the issuance of Bonds not more than three (3) business days following the issuance of RZFBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.~~

~~(b) Counties and large municipalities receiving designated RZFB allocations must provide CDLAC with a Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.~~

~~(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010:~~

~~(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.~~

~~(2) A resolution adopted by the governing body of the jurisdiction in which the proposed Project will be located, documenting the public approval process as required by 26 U.S.C. section 147(f) (TEFRA).~~

~~(3) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality such as a county or a conduit Issuer.~~

~~(4) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and~~

Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.

(5) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for the Bonds being utilized. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will automatically be Deemed Waived.

(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15th deadline may have their allocation Deemed Waived.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), 8869.86(c), and 8869.87, Government Code.

Chapter 10. Recovery Zone Facility Bond (RZFB) Program

Article 1. The American Recovery and Reinvestment Act of 2009 (ARRA)

Section 5520. U.S. Treasury Designated Recovery Zone Bond Allocations.

The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities have been excluded: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

Article 2. Application Process for the Recovery Zone Facility Bond Reallocation Pool

Section 5530. Application Process.

~~Allocations for the RZFB Reallocation Pool shall be considered pursuant section to article 4 of chapter 1 and the submission of a complete RZFB Application.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.~~

~~**Section 5531. Minimum Threshold Requirements in Addition to the Minimum Application Requirements in Section 5033.**~~

~~Applications for the Recovery Zone Facility Reallocation Pool will be subject to the following criteria:~~

~~(a) The maximum face amount of Bonds which may be re-allocated to a Qualified Recovery Zone Bond Issuer shall not exceed twenty million dollars (\$20,000,000) per Project.~~

~~(b) In the event an Allocation Round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum reallocation limit.~~

~~(c) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.~~

~~(d) The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of reallocation not to exceed ten (10%) percent of the original reallocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of Allocation and Project need.~~

~~(e) The Committee may grant an extension of the expiration date of the reallocation of up to thirty (30) calendar days but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.~~

~~(f) The Qualified Recovery Zone Bond Issuer is required to estimate the job impact that the proposed Project would achieve. This should be done by estimating the number of construction, temporary, and~~

permanent jobs that will be created by funding the Qualified Business Project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed Project.

(g) A county or large municipality that is only requesting all or a portion of reallocation that was voluntarily waived need only provide a written request and documentation that the Project is ready to issue the Recovery Zone Facility Bonds prior to the expiration date of December 31, 2010.

(h) Counties and large municipalities assigned a Recovery Zone Facility Bond allocation must designate the area that Bonds will be utilized in, as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(b).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 869.82(a)(11)(B) and 8869.84(c), Government Code.

Section 5532. Minimum Application Requirements.

Applications for the RZFB Reallocation Pool are required to submit the minimum requirements as provided in section 5033(b) in addition to the following requirements:

(a) Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in article 4 of this chapter.

(b) An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their Recovery Zone Bond allocation has been assigned to the Project seeking supplemental reallocation. The letter should include the amount and type of Bonds committed, the name of the Project, and the name of the department awarding Allocation.

(c) A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the Project. This requirement will only be required when the Issuer is an entity other than a municipality, such as the county or a conduit issuer.

(d) A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZFB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local

planning agencies for the proposed Project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.

(e) The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(B). This requirement is demonstrated by a resolution approved by the county or municipality.

(f) A request for an award that is Project specific.

(g) Adopted TEFRA Resolution.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), and 8869.85(b), Government Code.

Section 5533. Reallocation Priority System.

Upon a determination that an Application has met the requirements set forth in section 5531 and 5532 above, the following criteria will be used to evaluate, rank and award Allocations from the RZFB Reallocation Pool:

(a) Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation Application process. As the committee's first priority (Tier 1 Projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no Application will be required):

(1) A letter requesting the amount of allocation and a description of the proposed Project.

(2) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.

~~(3) A letter of support or approval of the Project from the municipality's appropriate governing body or bodies or elected official. This requirement will only be required when the Issuer is an entity other than the municipality, such as the county or a conduit Issuer.~~

~~(4) A Recovery Zone designation. The county or large municipality must designate the area that Bonds will be utilized in, as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the applicable county or large municipality.~~

~~(5) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.~~

~~(6) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for at least the amount of Bonds requested.~~

~~(b) Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 Projects) in the reallocation Application process. The following counties will have second priority: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities will have second priority: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.~~

~~(c) Tier 3 Projects. All other Projects requesting Recovery Zone Facility Bonds are funded as Tier 3 Projects. Those agencies that fall into the Tier 1 category but request an award of reallocation beyond their waived amount will also fall into this category for their supplemental reallocation request. A complete Application will be required for the supplemental reallocation request.~~

~~(d) Projects that fall into the Tier 1 category will be funded prior to all other Projects. Those Projects that fall into the Tier 2 category will be funded based on relative score of the Project's public benefits and prior to the funding of Tier 3 Projects. All Projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If there is an insufficient amount of Recovery Zone Facility Bonds Deemed Waived to fund all Allocation requests, CDLAC will~~

establish a waiting list for all unfunded Projects that meet the minimum Application requirements. These Projects will be funded as Allocation is received by CDLAC.

(e) Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to article 3 of this chapter the Committee will divide the reallocation request by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested reallocation per job(s) created.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

~~Section 5534. Undersubscribed Allocation.~~

If the initial RZFB Allocation Round is undersubscribed, CDLAC will accept Applications for the next scheduled committee Allocation meeting, allowing for a minimum of thirty (30) days to review the RZFB Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

~~Article 3. Specific Evaluation Criteria~~

~~Section 5540. Evaluation Criteria.~~

CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the applicant.

(a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Facility Bond Project is located will be divided

by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located, will be averaged, divided by the statewide poverty rate and multiplied by one hundred (100). The following points will be awarded accordingly:

(A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Three (3) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum). Excluding the Recovery Zone Area designation, points will be awarded provided the following is demonstrated:

(A) Evidence that the Project is located in a Special Designation Area.

(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.

(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average

~~based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)~~

~~(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.~~

~~(b) Job Creation (25 points maximum).~~

~~(1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation requested in the Application will be divided by the amount of Job Created proposed by the Recovery Zone Facility Bond Project and verified by the appropriate city or county official. Points will be awarded as follows:~~

~~(A) Twenty five (25) points to Projects creating one (1) job per \$35,000 or less of Allocation.~~

~~(B) Fifteen (15) points to Projects creating one (1) job per \$35,001 to \$50,000 of Allocation.~~

~~(C) Five (5) points to Projects creating one (1) job per \$50,001 to \$75,000 of Allocation.~~

~~(c) Welfare to Work Plan (5 points maximum). Points will be awarded where the Qualified Business proposes or is participating in a Welfare to Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.~~

~~(d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:~~

~~(1) Five (5) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.~~

~~(2) Three (3) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.~~

~~(3) One (1) point will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.~~

~~(e) Average Hourly Wage (5 points maximum). Applications will be awarded up to five (5) points based on a comparison of the Project Wage to the Job Wage. The Project Wage will be divided by the Job Wage and multiplied by (100). Points will be awarded as follows:~~

~~(1) Five (5) points for a Project Wage that is one hundred twenty five percent (125%) or more of the Job Wage;~~

~~(2) Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty five percent (125%) of the Job Wage;~~

~~(3) One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.~~

~~(f) Land Use/Energy Efficiency (20 points maximum)~~

~~(1) Six (6) points will be awarded to Projects that reuse the following:~~

~~(A) Vacant or abandoned buildings; or~~

~~(B) Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space, or other similar use).~~

~~(2) Seven (7) points will be awarded to Applications with Projects located within one-quarter (¼) mile of a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter (¼) mile radius of a Public Transportation Corridor. In areas where there is no public transportation system, seven (7) points will be awarded to Applications where the Applicant has an adopted transportation system management plan.~~

~~(3) Seven (7) points will be awarded to Projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the Project's total usage through Renewable Energy sources. Reduced energy usage shall be compared to the following benchmarks:~~

~~(A) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Non-Residential Buildings; and~~

~~(B) For equipment to be purchased and installed, the current per-energy unit output of equipment currently in use by the Qualified Business. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.~~

~~(g) Leverage (15 points maximum). Applications will be awarded where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the Project will include Taxable Debt such that it will supplant the use of tax-exempt Bond financing.~~

~~(1) Ten (10) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt greater than twenty percent (20%) of total Project costs.~~

~~(2) Five (5) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax exempt greater than ten percent (10%) and up to twenty percent (20%) of total Project costs.~~

~~(3) Three (3) point for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax exempt debt of up to ten percent (10%) of total Project costs.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

Article 4. Reporting Requirements

Section 5550. Reports and Timeframes.

~~(a) CDLAC will require a Report of Action Taken be submitted upon the issuance of Bonds not more than three (3) business days following the issuance of RZFBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.~~

~~(b) Counties and large municipalities receiving designated RZFB allocations must provide CDLAC with a Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.~~

~~(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010.~~

~~(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.~~

~~(2) A resolution adopted by the governing body of the jurisdiction in which the proposed Project will be located, documenting the public approval process as required by 26 U.S.C. section 147(f) (TEFRA).~~

~~(3) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality such as a county or a conduit Issuer.~~

~~(4) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.~~

~~(5) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for the Bonds being utilized. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will automatically be Deemed Waived.~~

~~(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15th deadline may have their allocation Deemed Waived.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), 8869.86(c), and 8869.87, Government Code.

Section 5700 Definitions. To the extent any of these definitions conflict with definitions set forth in ~~Government Code section 8869.82 and Chapter 1 of these regulations~~, the definitions contained in this section 5700 shall apply to this Chapter 13:

~~“Chartering Authority” means a State educational agency, local education agency, or other public entity that has the authority pursuant to State law to authorize or approve a Charter School.~~

~~“Public elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school, which provides elementary education, as determined under State law.~~

~~“Public secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school, which provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.~~

~~“Qualified Public Educational Facility” means any school facility which is part of a Public Elementary School or Public Secondary School, and owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local education agency pursuant to Internal Revenue Code §142(k)(2).~~

~~“Qualified Public Educational Facility Bond Application” (hereafter “Application”) means the Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Public Educational Facility Bond Project” (QPEFB Revised 3-15-2018), which is hereby incorporated by reference.~~

~~“Qualified Public Educational Facility Bonds” (QPEFB’s) are tax-exempt private activity bonds issued to finance the construction, rehabilitation, refurbishment, or equipping of a Qualified Public Education Facility.~~

~~“Qualified Public Educational Facility Project Sponsor” (hereafter “Project Sponsor”) means a private, for-profit corporation that undertakes the financing or refinancing of a qualified public education facility in conjunction with a school district, charter school, county office of education, or community college district in compliance with IRC section 142(k).~~

~~“School Facility” means any school building; any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events; and any property to which Internal Revenue Code § 168 applies or would apply but for section 179, for use in such a facility.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~**Section 5710. Application Process.** Applications for an Allocation of the Qualified Public Educational Facility Bond Pool shall be considered in accordance with the provisions of Chapters 1 and 13 the submission of an Application.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

Section 5711. Allocations.

- ~~(a) The Committee may award a Qualified Public Educational Facility Bond Allocation to the California School Finance Authority (“CSFA”) for the purposes of:
 - ~~(1) administering the Qualified Public Educational Facility Bond Pool. In awarding the Allocation to CSFA, the Committee will authorize CSFA to allocate portions of the award to Project Sponsors for purposes of issuing Bonds; or~~
 - ~~(2) sub-awarding Qualified Public Educational Facility Bond Allocation to Applicants on behalf of the Committee. In awarding the Allocation to CSFA, the Committee will authorize CSFA to transfer portions of the Allocation to Local Issuers and the CIEDB for purposes of issuing bonds under the Qualified Public Educational Facility Bond Program.~~~~

~~(b) The Committee may also directly award a Qualified Public Educational Facility Bond Allocation to Applicants for purposes of issuing bonds in connection with a specific project in compliance with this Chapter.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.~~

~~**Section 5720. Project Readiness.** The Applicant must provide evidence of Project readiness to the satisfaction of CSFA. The Applicant must provide the following readiness information as applicable:~~

- ~~(a) A description of the Project(s) that will be financed with the bond proceeds;~~
- ~~(b) Estimated beginning and ending date of Project construction;~~
- ~~(c) Evidence of site control as described in section 5190;~~
- ~~(d) For Projects involving charter schools, a copy of the charter or other evidence that a charter is in place, and evidence that the school is in good standing with its Chartering Authority; and~~
- ~~(e) Evidence of a public-private partnership agreement for the Project that complies with the requirements of Internal Revenue Code section 142(k)(2).~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~**Section 5721. Permits.** The Applicant must provide documentation of the applicable discretionary use permits and approvals from local planning agencies, as described in section 5190(b), for the proposed Project at the time of application.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~**Section 5722. Eligibility Requirement.** Projects financed with an allocation of Qualified Public Education Facilities Bonds shall comply with the Political Reform Act and Government Code section 1090 at the time of application and throughout the life of the bonds.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.~~

~~**Section 5730. Specific Reports.** CSFA will report each transfer of Allocation to the Executive Director of the Committee. Applicants receiving Allocation, including CSFA where it serves as the issuer, under the Program shall comply with the reporting requirements contained in article 11 of chapter 1.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~**Section 5731. Regulatory Compliance.**—An Applicant that receives an allocation of Qualified Public Educational Facility Bonds must enter into a regulatory agreement with the Project Sponsor that requires the Project to be used for public school purposes for the life of the bonds. At a minimum, the regulatory agreement shall be recorded against the property and include the following:~~

~~(a) Language incorporating by reference the CDLAC allocation resolution and all of its terms and conditions;~~

~~(b) A term consistent with the CDLAC allocation resolution and, at a minimum, be no less than the term of the bonds;~~

~~(c) Include all applicable requirements contained in 26 U.S.C. section 142 and Education Code section 17170, et seq.;~~

~~(d) A requirement that the Project be maintained for public school purposes during the life of the bonds;~~

~~(e) Designate CDLAC to receive notice of changes in ownership, Issuer, school that utilizes the Project, and Project name; and~~

~~(f) Designate CDLAC to receive all notices regarding defaults associated with the bonds; and (g) Language reflecting that Projects financed with an allocation of Qualified Public Education Facilities Bonds shall comply with the Political Reform Act and Government Code section 1090 throughout the life of the bonds.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

Chapter 11. Qualified Energy Conservation Bond Program [Repealed]

Chapter 12. Beginning Farmer Program, Article 1. Definitions.

§ 5600. Definitions.

§ 5600. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this division are defined as follows:

“Agricultural Improvements” means any improvements, buildings, structures or fixtures suitable for use in farming that are located on Agricultural Land. “Agricultural Improvements” do not include personal residences.

“Agricultural Land” means land located in the State of California that is:

- suitable for use in farming and that is or will be operated as a farm, as such term is defined by IRC § 147(c)(2)(D); and
- that will be acquired by a Beginning Farmer.

“Beginning Farmer” means an individual as defined by IRC § 147(c)(2)(C).

“Beginning Farmer Bond Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Beginning Farmer Bond Program” (11-30-18), which is hereby incorporated by reference.

“Beginning Farmer Bonds” means conduit revenue bonds issued as authorized by the State of California that meet the requirements of Internal Revenue Code §§ 144(a) and 147(c)-(g).

“Borrower” means a Beginning Farmer who has received Beginning Farmer Bond financing under the Program.

“Depreciable Agricultural Property” means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the IRC, including but not limited to farm machinery and breeder livestock, but not including feeder livestock, seed, feed, fertilizer and other types of inventory or supplies.

“Federal Maximum” means the maximum amount of a loan that federal law allows to be financed under the Program. This amount may be adjusted for inflation in future calendar years as provided for in IRC § 147(c)(2)(H).

“Financed Property” means property which is financed through the Beginning Farmer Program.

“Related Person” means a person or entity other than the Borrower as defined by IRC §§ 144(a)(3) and 147(a)(2).

“Substantial Farmland” means any parcel of land as defined by IRC § 147(c)(2)(E).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 2. Evaluation Criteria

§ 5610. Minimum Requirements.

(a) The Beginning Farmer Program proposed by the Applicant must be for the purpose of providing loans to beginning farmers. The beginning farmer must:

- (1) Be a California resident;
- (2) Be at least 18 years of age;
- (3) Be a “First Time Farmer” as defined by IRC § 147(c)(2)(C);
- (4) Be the principal operator of the farm;
- (5) Use loan proceeds to purchase land within California or eligible breeder livestock, equipment/machinery and/or new construction or renovations for use in farming operations solely within California;

(6) Only use the agricultural land, agricultural improvements and depreciable agricultural property for farming by the beginning farmer, his/her spouse, his/her minor children, or any combination thereof;

(7) Not use loan proceeds to procure seed, feed, feeder stock, fertilizer, personal residence (in excess of the IRC exceptions) or as otherwise prohibited and/or limited by the IRC; and

(8) Not exceed the lifetime aggregate amount of all loans for any borrower permitted by the IRC.

(b) The Issuer must certify that each participating lender will:

(1) Ensure that all of the proceeds of the Bond be used for the acquisition of farmland, construction or reconstruction of improvements or equipping of farmland, or the purchase of property of a character subject to the allowance for depreciation under IRC § 167 or other authorized costs.

(2) Verify the accuracy of all certifications of each Beginning Farmer and all other information with respect to the Project or Beginning Farmer set forth in an Application.

(3) Ensure that none of the proceeds of the Bond will be used to provide working capital or the financing of inventory, supplies or other ineligible operating expenses.

(4) Prior to the approval of the issuance of the bond, not finance or otherwise advance moneys to the Beginning Farmer or any Related Person in connection with the Project which the Beginning Farmer expects to finance with proceeds of the Bond in any manner inconsistent with applicable prohibitions and/or limitations set forth in the IRC.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5620. Scoring Criteria.

Upon a determination that an Application meets the minimum requirements pursuant to Section 5610, Applications will be scored based on the following criteria:

(a) Past Program Performance. For each allocation round, programs will be evaluated based on the percentage of the previous year's allocation used by each applicant in comparison to the percentage of the previous year's allocation used by the other applicants in the allocation round.

(b) Actual Versus Proposed Average Interest Rate and Loan Amount. For each allocation round, programs will be evaluated and ranked based on each applicant's deviation between the currently proposed and previous year's actual average interest rates, as well as the currently proposed and previous year's actual average loan amount, in comparison to the allocation round's other applicants' proposed and previous year's actual average interest rates and currently proposed and previous year's actual average loan amount.

(c) Additional Points. In a competitive application round, additional points will be awarded to Applicants that commit to the goal of providing allocation to Beginning Farmers that provide the following public benefits:

(1) Job Creation. A maximum of 20 points will be awarded to programs that use a substantial portion of allocation for programs that will add jobs to local economy (one point per job with a maximum of 20 points). Points will be awarded in the following manner:

(A) one (1) point will be awarded for each full time job;

(B) part time jobs will receive a tenth of a point, rounded to the nearest tenth of a point, based on the job's full time equivalency.

(2) Borrower Preparation. A maximum of 15 points will be awarded to programs that provide a technical assistance component for the following areas:

(A) Five (5) points will be awarded to Applicants that make available financial management education and/or training;

(B) Five (5) points will be awarded to Applicants that make available land management education and/or training; and/or

(C) Five (5) points will be awarded to Applicants that make available resource conservation education and/or training.

(D) Evidence of the aforementioned technical assistance program(s) shall be submitted with the application and shall include, but is not limited to, third-party contracts or agreements for the provision of training, training schedules, program curricula and narratives describing the training programs and written assurance of the education/training provider that beginning farmers will be eligible for the education/training for a minimum period of twenty-four (24) months after the beginning farmer's financing is approved by the Applicant.

(3) Farm to Fork. Nine (9) points will be awarded to Applicants that use a substantial portion of allocation for programs that establish or enhance farming operations producing edible agricultural commodities for sale and consumption within 200 miles of the farming operations financed by proceeds from a beginning farmer bond. Evidence of the program shall be submitted with the application and shall include, but is not limited to, a description of the program identifying how the program will operate, proposed buyers and sales contracts.

(4) Family Farms. Three (3) points will be awarded to Applicants that use a substantial portion of allocation for programs to acquire family farms by beginning farmers (land, breeding livestock and/or equipment/machinery).

(5) Under-Represented Borrowers. Three (3) points will be awarded to Applicants that use a substantial portion of allocation for programs designed to facilitate acquisition of farmland, breeding livestock equipment and/or equipment/machinery by veterans, women and/or under-represented populations.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5630. Allocation Distribution.

The Committee will determine the amount allocated to each Applicant based upon the evaluation criteria set forth in section 5620, the number of Applicants applying in the Allocation Round, the amount requested by each Applicant and the amount of allocation available in the Beginning Farmer Program Pool. In a competitive Application year, the maximum requested amount of Allocation per Application shall not exceed twenty million dollars (\$20,000,000). The Committee may waive this cap on a case-by-case basis in its sole and absolute discretion.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8859.85(b), Government Code.

Article 3. Reporting Requirements

§ 5640. Specific Reports.

Applicants receiving an allocation shall comply with the reporting requirements contained in Article 11 of Chapter 1.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.



California Debt Limit Allocation Committee

AGENDA ITEM 11

2022 Regulations Discussion

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

January 19, 2022

Regulation Discussion

(Agenda Item No. 11)

ACTION:

In the Ranking Section 5231 (g) (3) of the CDLAC regulations it requires – for allocations made after the first competitive round in 2022 and beyond, provisions shall be amended to a formula which will measure the total amount of State of California investment in the Project relative to the public benefit produced by the Project.

This Regulation Discussion Item was placed on the agenda to continue discussions to update the competitive application process for Qualified Residential Rental Projects (QRRP) allocations awarded after the first round of 2022. It is listed as an Action Item on the Agenda to afford the Committee the opportunity to vote on any additional items necessary during the discussion yet is intended to provide a summary of events.

DISCUSSION:

To date, the Committee has agreed on the tiebreaker framework displayed in EXHIBIT 11a. Also attached is EXHIBIT 11b.; the comparison of each Committee Member's proposals for Apportionment of the set-asides updated as of January 18, 2022. At previous meetings the following items were discussed and voted on.

At the November 29, 2021, and the December 8, 2021, meeting the Committee agreed to the terms identified in the Tie-Breaker calculation sheet EXHIBIT 11a.

At the December 22, 2021, meeting the Committee decided:

- The first round of allocation will follow the current regulations
- the leverage point category will remain

In that meeting the Treasurer asked the Working Group to convene, review the proposals, pools and set-asides, and provide feedback on the following items raised in previous meetings by the Committee Members.

- Codifying the allocation process to decrease discussions of how awarding state credits is going to work, such as; if a bond does not receive state tax credits, they should not be awarded or be deemed feasible which would help the award process.
- With the Build Back Better bill possibly changing the 50% test to 25%, determine the bonds percentages (reg 5233) required to receive the full tax credit allocation, such as; "If the federal law changes, then" X would occur.
- Revise the skipping rule for allocating bonds as that is creating structural

issues with the allocation process causing projects to fall out.

- Redefine preservation projects (item #5) and remove the piece that allows Section 8 projects that do not have CDLAC/CTCAC regulatory agreements on them to receive qualified preservation.
- Revise the definitions in the community revitalization areas perhaps by leveraging the distressed community definition.
- Engage the environmental side and sustainability side so that scoring is calibrated correctly.
- Creating methodologies for apportionment based on population and allowing for population change.
- Realigning the geographic apportionments, such as; group high FMR counties together
- How carryforward allocation is to be used, such as; have carryforward used in ELI/VLI
- Homeless prioritization to decrease to 49%.
- Broadening definition of homelessness
- Revise Supplemental bond requests
- Refine point changes for consistency
- AFFH point

The working Group should also take into consideration all public comment made regarding the regulations.

Once staff reviews the recommendation of the Working Group and the comments from the public, they will prepare recommendations in the form of revised regulations and present it to the Committee. Staff has also agreed to have a workshop and an extended public comment period prior to adopting any proposed regulation changes.

EXHIBIT 11a.

Proposed CDLAC Tie-Breaker Calculation and Values (Draft version 1/19/2022)

CDLAC Tie-Breaker Calculation

Public Benefit: Production + Rent Savings + Population + Location

Members Agreed

Resources Measured: (Tax-Exempt Bonds + State Tax Credits) x (100% - Sum of Adjustments)

Public Benefit (Numerator)	Value	Calculation	
Production Benefit			
Adjusted Units Produced at 80% AMI or Below	\$50,000	Adjusted Units x Value	Members Agreed
Rent Savings Benefit			
Project Rent Savings relative to County FMR	Varies	County FMR - Restricted Rents x 15 Years 40% AMI floor for non-rental assistance and 30% AMI floor for rental assisted units (project based voucher)	Members Agreed
Population Benefit (multiple selections possible)			
Extremely Low-Income	\$20,000	Designated Units x Value	Limited to 50% of units earn population benefits (CAP)
Very Low Income		Designated Units x Value Removed	
Homeless OR Veterans OR Other Special Needs (Non-Homeless or Non Veterans)	\$10,000	Designated Units x Value	
Veterans OR Other Special Needs (Non-Homeless or Non Veterans)		Designated Units x Value Removed	
Location Benefit (multiple selections possible)			
Highest Resource Area (Large Family / PSH)	\$30,000	Adjusted Units x Value	ONE OF THESE
High Resource Area (Large Family / PSH)	\$20,000	Adjusted Units x Value	
Moderate Resource Area (Large Family / PSH)	\$10,000	Adjusted Units x Value	
Community Revitalization Area : (Need to work with HCD for better definition)	\$20,000	Adjusted Units x Value	OR THIS
TOD Emphasis (Per TCAC Transit Score)	\$4,000	Adjusted Units x Value x TCAC Points	PLUS THIS
1/2 Mile High Quality Transit or AHSC/TOD Award	\$25,000	Adjusted Units x Value	
Walkable TCAC Amenities (only closest distance qualifies)	\$4,000	Adjusted Units x Value x # of Qualifying Amenities	
Resources Measured (Denominator)			
Resource Measured: Tax Exempt Bonds	Varies	Requested Bonds	
Resource Measured: State Tax Credits	Varies	Requested State Tax Credits	
Adjustment: Prevailing Wages	15%	See Below	
Adjustment: Type I Density	10%	See Below	
Adjustment: Type III Density	5%	See Below	
Adjustment: TCAC Basis Delta (reduction and caps TBD)	Varies	25% and remove the cap - Sum of Adjustment Values	

EXHIBIT 11b.

COMPARISON OF APPORTIONMENT RECOMMENDATIONS OF THE COMMITTEE FOR 2022
DECEMBER 22, 2021 (REVISED JAN 13, 2022)

	Controller's Office	Administration	Treasurer's Office
Exempt Facilities	\$0	\$510.4 M	\$600 M
CalVET	\$0	\$89.6 M	\$0
Set-Aside Pools	100%	60% after EXF	\$60% after EXF
BIPOC	5%	5%	5%
Preservation	14%	15%	14%
Other Rehabilitation	1%	1%	1%
Rural – New Construction	5%	6%	5%
New Construction	75%	-	-
Homeless	25%	23%	25%
ELI/VLI	20%	27%	30%
State Funded Mixed Income	0%	23%	20%
Geographic Regions	Homeless and ELI/VLI count against the Geographic Region FMR X Population	40% after EXF *Modify the regions to better align counties with similar FMRs	40% after EXF
Coastal Region	25.1%	21%	21%
City of Los Angeles	-	17%	18%
Balance of Los Angeles	-	16%	17%
Los Angeles (combine the two above)	26.9%	-	-
Bay Area Region	22.5%	21%	17%
Inland Region	16%	16%	17%
Northern Region	9.5%	9%	10%

*The Administration's proposed changes to the Geographic Regions and allocation were not discussed at the December 22, 2021 meeting and will be discussed at the January 19, 2022 meeting.

Administration's Proposed County Shift:

- Marin County from Northern to Bay Area
- Santa Cruz County from Coastal to Bay Area
- San Joaquin County from Inland to Northern
- Napa County from Northern to Coastal
- Sonoma County from Northern to Coastal



California Debt Limit Allocation Committee

AGENDA ITEM 12

Public Comment



California Debt Limit Allocation Committee

AGENDA ITEM 13

Adjournment