

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**  
**January 27, 2010**

**Consideration and Adoption of the Proposed Revisions to the Procedures of the**  
**California Debt Limit Allocation Committee**  
**(SECTION 25- QUALIFIED ENERGY CONSERVATION BOND PROGRAM)**

**I. ACTION**

Approve proposed Qualified Energy Conservation Bond (QECB) Procedures as modified since presented to the Committee at the November 18, 2009 meeting (See Attachment A).

**II. BACKGROUND**

Staff recommends general as well as technical changes to the existing CDLAC Qualified Energy Conservation Bond Program Procedures. These changes are recommended to achieve the following goals for the Qualified Energy Conservation Bond Program:

- Complete Reporting Process for Initial QECB Allocation: Establish a set of reporting requirements for initial QECB allocation that will promote the maximum usage of initial allocation, and the tracking of initial allocation usage. Unused initial allocation can be reallocated to Eligible Reallocation QECB Applicants.
- Mechanism for Reallocation of Waived Allocation: Establish a mechanism for the reallocation of QECB allocation that has been waived by Large Local Governments. This will enable the QECB allocation to be better utilized, inasmuch as the allocation will be made available to Applicants who can use the allocation.
- QECB Reallocation Priority: Establish a priority for the large local governments that waived their designated allocation. Specifically, they may request up to their waived amount without competing in the reallocation process.
- Fair/Objective Reallocation Process for Non-Priority Applicants: Establish an objective and fair reallocation process that will mirror the procedures for other CDLAC allocation awards. The proposed process will be a fair and objective process in which projects/programs will be ranked according to how well they perform relative to other projects/programs.
- Public Benefit: Create a process that focuses on the creation of public benefits. Inasmuch as the reallocation process ranks projects/programs according to how much public benefit they provide in comparison to that of other programs/projects, there is a strong incentive for projects/programs to provide as much public benefit as possible.

**III. SUMMARY OF QECB INITIAL ALLOCATION REPORTING REQUIREMENTS**

The proposed Procedures would enhance the reporting requirements for QECB initial allocation:

- Large Local Governments that do not submit a Plan of Issuance by January 31, 2010, will 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 award, the excess amount of bond allocation will be deemed waived.

- Large local governments that have submitted a Plan of Issuance and have not issued their designated award are required to submit the following documentation, no later than August 15, 2010: a) a resolution that the issuer has approved the project; c) documentation of the appropriate governing body's or bodies or elected official's approval of the Project (private activity bonds only); d) written memo from bond counsel which states that the project being funded with QECBs qualifies under the federal guidelines; e) a commitment letter from the purchaser or underwriter for the amount of the allocation requested. Projects that have submitted a Plan of Issuance but have not provided the above documentation by August 15, 2010 will have automatically waived allocation.

#### **IV. SUMMARY OF QECB REALLOCATION MINIMUM REQUIREMENTS**

The proposed Procedures would create the following threshold requirements for QECB reallocation applications:

- The Project Sponsor and/or Governmental Entity must provide a description of the proposed use of the bond proceeds with a description of the project.
- The Issuer must describe the financing plan, including whether the bonds will be issued as a public offering or a private placement.
- The Applicant must be an Eligible Reallocation QECB Applicant. That is to say, the Applicant must be a city, county, state entity or Indian tribal government located in the State of California.
- The Issuer must be an Eligible Reallocation QECB Issuer. That is to say, the Issuer must be an eligible Issuer according to the relevant federal regulations.
- 100 percent of the proceeds of such issue are to be used for one of the "qualified conservation purposes" as defined in the IRS Notice 2009-29.
- The Applicant must provide documentation that shows that the Applicant is ready to go forward with their project/program.
- The Applicant must provide evidence of all required public entitlements.

#### **V. SUMMARY OF QECB REALLOCATION EVALUATION CRITERIA**

The proposed Procedures would create the following evaluation criteria for QECB reallocation:

- As CDLAC's first priority, the counties, large municipalities and tribal governments that waived their designated allocation may request up to their waived allocation amount by providing the following documentation: a) a letter requesting the amount of allocation and a description of the proposed project; b) a resolution that the issuer has approved the project; c) documentation of the appropriate governing body's or bodies or elected official's approval of the Project (private activity bonds only); d) written memo from bond counsel which states that the project being funded with QECBs qualifies under the federal guidelines; e) a commitment letter from the purchaser or underwriter for the amount of the allocation requested.
- Qualified Reallocation QECB Applicants that are seeking an allocation will have their applications evaluated, ranked and awarded Allocations from the Qualified Energy Conservation Bond Reallocation Pool within their particular Project and/or Program pool. As such, CDLAC

has established various project and/or program categories based on the various “qualified conservation purposes” established for the QECB allocation in IRS Notice 2009-29.

## **VI. SUMMARY OF QECB REALLOCATION REPORTING REQUIREMENTS**

The proposed Procedures would create the following reporting requirements for QECB reallocation:

- CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of QECBs. This report should include the date and amount of the issuance and the designated locality in which proceeds will be used.
- Federal tax law mandates that 100 percent or more of the available project proceeds be spent for one or more qualified purposes within the 3-year period beginning on such date of issuance. Hence, CDLAC will require Applicants to provide ongoing documentation evidencing their initial usage of bond proceeds as detailed in Exhibit A of the QECB Reallocation Application.

## **VII. COMMENTS:**

Staff received verbal comments on the draft procedures at the public hearings held on December 4<sup>th</sup>, 2009 and December 9<sup>th</sup>, 2009. Please see full Public Comment matrix for all comments and recommendations (See ATTACHMENT B).

In response to the comments received, the following highlighted areas of the proposed procedures were modified:

- All counties and cities will now be eligible to apply for an award of allocation regardless of population.
- A “legal memo”, rather than a formal legal opinion, will be required at the time of application. The specific requirements of the memo will be addressed in the Reallocation Procedures and Applications.

## **VIII. RECOMMENDATION:**

Approve the proposed Qualified Energy Conservation Bond Procedures as modified and attached.

*Prepared by Brady Hill.*

## ATTACHMENT A

### Section 25. Qualified Energy Conservation Bond Program

#### DEFINITIONS (TO BE INTEGRATED INTO SECTION 2 OF THE PROCEDURES)

“Qualified Energy Conservation Bond”- means any qualified tax credit bond issued as part of an issue if: (1) 100 percent of the available project proceeds of such issue are to be used for one or more “qualified conservation purposes” as defined in IRS Notice 2009-29, (2) the bond issued by a State or local government, and (3) the issuer designates such bonds for purposes of Section 54D(f) of the Internal Revenue Code.

“Large Local Government”- for the purposes of the Qualified Energy Conservation Bond Program, means a county or municipality with a population of 100,000 or more as defined in Section 54D(e)(2)(C) of the Internal Revenue Code, or an Indian tribal government as defined in Section 54D(h) of the Internal Revenue Code.

“Qualified Conservation Purpose”-for the purposes of the Qualified Energy Conservation Bond Program, means the uses of the bond proceeds for certain conservation purposes that are permitted under Section 54D(f) of the Internal Revenue Code.

“Allocation Waiver” - Election by the county or municipality that they are unable to utilize a portion or the entire designated award thereby; allowing CDLAC to reallocate the waived allocation.

“Carbon Footprint” - for the purposes of the Qualified Energy Conservation Bond Program, carbon footprint will be a measure of Greenhouse Gas Emissions.

“Eligible QECB Reallocation Issuer”- per IRS Notice 2009-29, “Eligible issuers include States, political subdivisions as defined for purposes of § 103, and entities empowered to issue bonds on behalf of any such entity under rules similar to those for determining whether a bond issued on behalf of a State or political subdivision constitutes an obligation of that State or political subdivision for purposes of § 103 and § 1.103-1(b) of the regulations.”

“Eligible QECB Reallocation Applicant”- any city, county, State Entity or Indian Tribal Government located in the State of California.

#### II. ARRA MINIMUM REQUIREMENTS QECB INITIAL ALLOCATION REPORTING REQUIREMENTS

A. ~~CDLAC will administer the State's portion of the QECB allocation only. CDLAC will have no immediate role in the administering of the QECB allocation to large local governments. However, the following shall apply to all recipients of QECB allocation:~~

1. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of QECBs. This report should include the date and amount of the issuance and the designated locality in which proceeds will be used.
2. Large local governments that do not submit a Plan of Issuance by January 31, 2010, will automatically have their allocation deemed waived and captured by CDLAC for reallocation.
3. Large local governments receiving QECB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a description of the projects to be funded. In addition, large local governments are

encouraged to include a project issuance timeline as part of the Plan of Issuance. Large local governments that do not submit a Plan of Issuance by January 31, 2010, will 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 award, the excess amount of bond allocation will be deemed waived.

4. Large Local Governments that have submitted a Plan of Issuance and have not issued their designated award are required to submit the following documentation, no later than August 15, 2010:

A. A resolution of the issuer approving the project, which may take the form of a reimbursement resolution or and inducement resolution.

B. Documentation of the appropriate governing body's or bodies or elected official's approval of the project.

C. The applicant must provide a written memo from bond counsel which shall state the following: a) the project in question meets the public benefit test of QECB's under the federal guidelines b) the project is an eligible use of QECB's under the federal guidelines

D. A commitment letter from the purchaser or underwriter of the bonds being utilized if the commitment is less than the anticipated amount of bonds being utilized the excess will automatically revert to the committee.

5. Projects that have submitted a Plan of Issuance but have not provided the above documentation will have automatically waived allocation.

B. Usage of initial allocation must comply with the federal requirements laid out in IRS Notice 2009-29.

~~CDLAC will administer the State's portion of the QECB allocation only. CDLAC will have no immediate role in the administering of the QECB allocation to large local governments. However, all recipients of QECB allocation shall meet the following minimum requirements of the American Recovery and Reinvestment Act, including the following:~~

~~A. Applicant must be a large local government: a county or municipality with a population of 100,000 or more; or an Indian tribal government. An Indian tribal government shall be treated as a large government, except that (1) an Indian tribal government shall be treated as located within a State to the extent of so much of the population of such government as resides within the State, and (2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issues bonds to which Section 103(a) of the IRS Code applies; or, Applicant must be a State Entity; or, a Small Local Government Allocation Transferree as defined in Section 2 of the CDLAC Procedures.~~

~~B. Applicants must use at least 70% of their designated allocation for governmental purpose bonds and 30% can be used for private activity bonds. However, if an applicant has used all of its allocation and has issued more than 70% of their designated allocation for governmental purpose bonds, then applicants may be able to use more than 30% of their allocation to issue private activity bonds. Nonetheless, of the allocation for the entire state, only 30% can be used to issue private activity bonds.~~

~~C. The proposed use of bond proceeds must meet the following requirements:~~

~~100 percent of the proceeds of such issue are to be used for one or more of the following "qualified conservation purposes":~~

~~1. Capital expenditures incurred for purposes of (i) reducing energy consumption~~

- ~~in publicly owned buildings by at least 20 percent, (ii) implementing green community programs (including the use of loans, grants, or other repayment mechanisms to implement such programs), (iii) rural development involving the production of electricity from renewable energy resources, or (iv) any qualified facility eligible for the production tax credit under Section 45 of the IRS Code.~~
- ~~2. Expenditures with respect to research facilities, and research grants, to support research in (i) development of cellulosic ethanol or other non-fossil fuels, (ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels, (iii) increasing the efficiency of existing technologies for producing non-fossil fuels, (iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or (v) technologies to reduce energy use in buildings.~~
- ~~3. Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles uses for mass commuting.~~
- ~~4. Demonstration projects designed to promote the commercialization of (i) green building technology, (ii) conversion of agricultural waste for use in the production of fuel or otherwise, (iii) advanced battery manufacturing technologies, (iv) technologies to reduce peak use of electricity, or (v) technologies for the capture and sequestration of carbon dioxide emitted from combining fossil fuels in order to produce electricity.~~
- ~~5. Public education campaigns to promote energy efficiency.~~
- ~~6. If the bond issue is a private activity bond, the term "qualified conservation purposes" shall not include any expenditure that is not a capital expenditure. However, bonds issued for the purposes of providing loans, grants, or other repayment mechanisms for capital expenditures to implement green community programs are not treated as private activity bonds for purposes of Section 54D(e)(3) of the IRS Code.~~

## **II. CDLAC MINIMUM REQUIREMENTS FOR RE-ALLOCATIONS OF QECB ALLOCATION**

Applicants shall be required to comply with the following:

- A. The Project Sponsor and/or Governmental Entity must provide a description of the proposed use of the bond proceeds with a description of the project.
- B. The Issuer must describe the financing plan, including whether the bonds will be issued as a public offering or a private placement.
- C. The Applicant must be an Eligible Reallocation QECB Applicant as defined in Section 2.
- D. The Issuer must be an Eligible Reallocation QECB Issuer as defined in Section 2.
- E. The proposed use of bond proceeds must meet the following requirements:  
100 percent of the proceeds of such issue are to be used for one of the "qualified conservation purposes" as defined in the IRS Notice 2009-29.
- F. The Applicant must provide the following readiness information:
- 1) Estimated date of issuance
  - 2) If applicable, estimated beginning date and ending date of project construction.
  - 3) If applicable, estimated funding of grants for research and research facilities..

- 4) If applicable, estimated beginning of public education campaigns.
- 5) If applicable, estimated implementation of demonstration projects.
- 6) If applicable, estimated date that site control will be established.

G. The Applicant must provide evidence of all required public entitlements.

### III. EVALUATION CRITERIA FOR APPLICATIONS FOR RE-ALLOCATIONS OF QECB ALLOCATION

A. Allocation waived by a county or municipality, or deemed waived, shall be re-allocated by CDLAC to individual qualifying projects on a competitive basis. As the Committee's first priority, the large local governments 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 that the issuer has ~~approving~~ approved the project, which may take the form of a reimbursement resolution or an ~~and~~ inducement resolution.
3. Documentation of the appropriate governing body's or bodies or elected official's approval of the project (Private Activity Bonds Only).
4. The applicant must provide a written ~~opinion~~ memo from bond counsel which states that \_\_\_\_\_ the project being funded with QECBs qualifies under the federal guidelines. \_\_\_\_\_ Bond counsel will need to cite federal tax law in their ~~opinion~~. shall state the following: a) the project in question meets the public benefit test of QECB's under the federal guidelines b) the project is an eligible use of QECB's under the federal guidelines
5. A commitment letter from the purchaser or underwriter for the amount of allocation requested.

A. ~~B.~~ Large Local Government Applicants that are seeking an allocation amount above their initial allocation award or any other non-priority Eligible QECB Applicant ~~and State Entity Applicants, and Small Local Government Allocation Transferee~~ will have their applications scored according to the criteria described below. In addition, individual applications may only apply to one pool. Upon a determination that an Application has met the minimum requirements set forth in subsection I. above, the following criteria will be used to evaluate, rank and award Allocations from the Qualified Energy Conservation Bond Reallocation Pool within their particular project and/or program pool. For all Applications for QECB Reallocation, the Committee will establish a process for evaluating requests for Allocation for technologies that are unfamiliar to the Committee and for industries that have not previously or recently requested an award of Allocation from the Committee. When such Applicants request Allocation, the Committee will conduct a review of the technology, the industry, and the state of environmental or other regulations. The Committee may request assistance of other federal, state, and local agencies when conducting this review. The Applicant and/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 new area of business:

#### 1. ~~—1.—~~ Capital Expenditures Pool

All estimates of project performance must be supported by qualified third party documentation. Third party documentation will be authenticated by CAEATFA.

##### a. Qualified Facilities (Private Activity Use and Governmental Use)

(10 point maximum).

All Qualified Facility Projects must be in compliance with the Renewable Portfolio Standard Eligibility Requirements of the California Energy Commission.

i. Ten points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the highest amount of kilowatt hours of electricity. (first place)

ii. Five points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the second highest amount of kilowatt hours of electricity. (second place)

iii. Two points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the third highest amount of kilowatt hours of electricity. (third place)

iv. No points will be awarded to the project that produces the lowest amount of kilowatt hours of electricity.

v. Qualified Facility Projects that include Energy Efficient Publicly Owned Buildings may apply for bonus points if they meet the criterion set out in Section 24.I.A.4.

b. Energy Consumption Reduction and Pollution Reduction of Mass Commuting Facilities and Related Facilities (Private Activity Use and Governmental Use) (12 point maximum).

i. Twelve points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the lowest amount of energy consumption and/or highest amount of pollution reduction. (first place)

ii. Eight points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the second lowest amount of energy consumption and/or second highest amount of pollution reduction. (second place)

iii. Four points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the third lowest amount of energy consumption and/or third highest amount of pollution reduction. (third place)

iv. No points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in a highest energy consumption and/or lowest pollution production.

v. Mass Community Facility and/or Related Facility projects that include Energy Efficient Publicly Owned Buildings may apply for bonus points if they meet the criterion set out in Section 24.II.A.4.



c. Rural Development Electricity from Renewable Resources  
(Private Activity Use and Governmental Use) (12 point maximum).

i. Twelve points will be awarded to the rural project that will produce the  
highest amount of kilowatt hours of electricity from renewable resources.  
(first place)

ii. Eight points will be awarded to the project that will produce the second  
highest amount of kilowatt hours of electricity from renewable resources.  
(second place)

iii. Four points will be awarded to the project that will produce the third  
highest amount of kilowatt hours of electricity from renewable resources.  
(third place)

iv. No points will be awarded to the project that produces the lowest amount  
of kilowatt hours of electricity.

v. Elective: Two additional points will be awarded to a rural project that  
delivers electricity to a population of 10,000 (or more) that are not on the  
electricity grid at the time of application.

vi. Rural Development Electricity from Renewable Resource projects that  
include Energy Efficient Publicly Owned Buildings may apply for additional  
bonus points if they meet the criterion set out in Section 24.II.A.4.

d. Energy Efficient Publicly Owned Buildings (Governmental Use Only)  
(10 point maximum).

One point will be awarded to projects for every percentage point beyond the  
minimum required (20%) that energy consumption is reduced in a publicly owned  
building. This information must be certified by a licensed mechanical engineer or  
architect.

2. Energy Program Pool

a. Effectiveness of Research Investments (10 point maximum)

i. Ten points will be awarded to the research that will result in technology  
with the lowest carbon footprint in terms of Greenhouse Gas Emissions.  
(first place).

ii. Five points will be awarded to the research that will result in technology  
with the second lowest carbon footprint (second place).

iii. Two points will be awarded to the research that will result in technology  
with the third lowest carbon footprint (third place).

iv. No points will be awarded to the research that will result in technology  
with the highest carbon footprint.

b. Demonstration Projects (10 point maximum).

The criteria used to evaluate the approach of the Demonstration Project will  
include, but will not limited to the following: the size, experience and capacity of

the demonstration client base, the verification of the practicality and marketability of the demonstrated technology by a third party, and the overall degree of environmental benefit of the demonstrated technology. Overall degree of environmental benefit of the technology will be measured by reductions in energy consumption measured in kWh saved and/or the amount of greenhouse gas emissions measured in MMTCO<sub>2</sub>e (million metric tons of CO<sub>2</sub> equivalent). Applicants will be required to document their previous success with the introduction, marketing and production of a new technology.

i. Ten points will be awarded to the Demonstration Project that has the most comprehensive and impactful approach to the commercialization of green technologies. (first place)

ii. Five points will be awarded to the Demonstration Project that has the second most comprehensive and impactful approach to the commercialization of green technologies. (second place)

iii. Two points will be awarded to the Demonstration Project that has the third most comprehensive and impactful approach to the commercialization of green technologies. (third place)

iv. No points will be awarded to the Demonstration Project that has the least comprehensive and impactful approach to the commercialization of green technologies.

c. Public Education Campaign (10 point maximum)

The following criteria will be used to evaluate a Campaign's approach: number and size of ~~clients-target groups~~ willing to host or facilitate public education ~~seminars- activities~~ (authenticated by ~~clientstarget groups~~); ~~depth and clarity- potential penetration of potential public education seminars activities in the energy community~~; ~~number of seminars per dollar of allocation dollars of allocation per activity~~.

i. Ten points will be awarded to the Public Education Campaign with the most comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc. (first place)

ii. Five points will be awarded to the Public Education Campaign with the second most comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc. (second place)

iii. Two points will be awarded to the Public Education Campaign with the third most comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc. (third place)

iv. No points will be awarded to Public Education Campaign with the least comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc.

3. Loan / Grant Programs Program Pool (10 point maximum).

a. Two points will be awarded for every loan that will be funded per \$10,000 of allocation used. One point will be awarded for every grant that will be funded per \$10,000 of allocation used.

b. Loans and Grants can be for capital expenditures associated with implementing green community programs, research grants for promoting green technologies demonstration projects and public education campaigns.

c. Applicants will be asked to provide the following information: description of what is being funded with the loans and/or grants; capacity of the funding (i.e. - the number and size of the loans); loan criteria and awarding process; and compliance measures that will be imposed on recipients of loans and/or grants.

d. Federal tax law mandates that 100 percent or more of the available project proceeds be spent for one or more qualified purposes within the 3-year period beginning on such date of issuance. Hence, CDLAC will require Applicants to provide ongoing documentation evidencing their initial usage of bond proceeds.

**IV. REPORTING- REPORTING REQUIREMENTS FOR RE-ALLOCATIONS OF QECB ALLOCATION**

A. CDLAC will administer the State's portion of the QECB allocation only. CDLAC will have no immediate role in the administering of the QECB allocation to large local governments. However, the following shall apply to all recipients of QECB allocation:

4-1. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of QECBs. This report should include the date and amount of the issuance and the designated locality in which proceeds will be used.

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4-2. Federal tax law mandates that 100 percent or more of the available project proceeds be spent for one or more qualified purposes within the 3-year period beginning on such date of issuance. Hence, CDLAC will require Applicants to provide ongoing documentation evidencing their initial usage of bond proceeds as detailed in Exhibit A of the QECB Reallocation Application.

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2. Large local governments that do not submit a Plan of Issuance by January 31, 2010, will automatically have their allocation deemed waived and captured by CDLAC for reallocation.

3. Large local governments receiving QECB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a description of the projects to be funded. In addition, large local governments are encouraged to include a project issuance timeline as part of the Plan of Issuance. Large local governments that do not submit a Plan of Issuance by January 31, 2010, will 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 award, the excess amount of bond allocation will be deemed waived.

~~4. Large Local Governments that have submitted a Plan of Issuance and have not issued their designated award are required to submit the following documentation, no later than August 15, 2010:~~

- ~~A. A resolution of the issuer approving the project, which may take the form of a reimbursement resolution or an inducement resolution.~~
- ~~B. Documentation of the appropriate governing body's or bodies or elected official's approval of the project.~~
- ~~C. The applicant must provide a written opinion from bond counsel which states that the project being funded with QECB qualifies under the federal guideline. Bond counsel will need to cite federal tax law in their opinion.~~
- ~~D. A commitment letter from the purchaser or underwriter of the bonds being utilized if the commitment is less than the anticipated amount of bonds being utilized the excess will automatically revert to the committee.~~

~~5. Projects that have submitted a Plan of Issuance but have not provided the above documentation will have automatically waived allocation.~~

**ATTACHMENT B**  
**PUBLIC COMMENT ON DRAFT REVISIONS WITH STAFF RECOMMENDATIONS**  
 CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE  
 DRAFT QECB PROCEDURES  
 January 27, 2010

The comments listed below are comments received from the public in response to the draft revisions that were made available for a 30-day public comment period that began on November 18, 2009 and ended on December 18, 2009. Staff did not receive any letters commenting on the draft Procedures. All comments were received at the public hearings held on December 4<sup>th</sup>, 2009 and December 9<sup>th</sup>, 2009. Staff's response and a recommendation of "Accept" or "Reject" are included for each comment. Of the public comments that staff has accepted, some have resulted in a corresponding revision to the recommended proposed CDLAC Procedures.

Item #	Section	Comments	Commentator	Staff Recommendations	Accept / Reject (A/R)
<b><i>Section 25: Qualified Energy Conservation Bond Program</i></b>					
2	Section 25.III.A.4	<p>Suggests that we provide more specific information regarding the legal opinion we are requiring from bond counsel at the time of application. He thinks that the legal opinion should be preliminary, inasmuch as a full opinion would be unnecessarily cumbersome.</p> <ul style="list-style-type: none"> <li>• This proposal would provide for less upfront cost to Issuers.</li> <li>• Suggestion: In the CDLAC Procedures, staff should clarify that the legal opinion only needs to be preliminary. An option would be to require a memo from a bond counsel firm. The memo would state that their initial review of the project has shown that the project qualifies under the relevant ARRA program.</li> </ul>	Richard Watson, California Statewide Communities Development Authority	This proposal should be accepted. A "legal memo" rather than a formal legal opinion will be required at the time of application. In the legal memo, bond counsel would need to state that the project meets the public benefit test of the QECB under the federal guidelines and that it is an eligible use of the QECBs under the federal guidelines.	A
	Section 25	Suggests that the ARRA Sections of the Procedures add unnecessary length to the	Dan Broufman - Growth Capital Assoc.	This proposal should be rejected. According to the STO legal office, we	R

		<p>Procedures.</p> <ul style="list-style-type: none"> <li>• Suggestion: Remove the QECB section from the Procedures and add it as an addendum to the Procedures.</li> </ul>		<p>must include all programs in the adopted CDLAC procedures. As such, we cannot take these ARRA Programs out of the Procedures and put them in an addendum. When the program becomes nonexistent or dormant, staff will recommend that it be removed from the Procedures.</p>	
	Section 25.III	<p>Suggests that the CDLAC Evaluation Process is far too lengthy.</p> <ul style="list-style-type: none"> <li>• Suggestion: Shorten the Evaluation Criteria as much as possible in the CDLAC Procedures to create a fast track process for Applicants.</li> </ul>	Paula Connors, I-Bank	<p>This proposal should be rejected. CDLAC anticipates a competitive process and has proposed an evaluation and ranking system that favors readiness and maximizes the public benefit opportunities; thereby strengthening California's communities and economy.</p>	R
1	Section 25.III.B	<p>Against large local government restriction on reallocations of QECB allocation. Suggests that this restriction is an unnecessary and impractical boundary, which would make financings by small cities difficult and improbable.</p> <ul style="list-style-type: none"> <li>• Smaller jurisdictions should be allowed to directly apply for the QECB Reallocation.</li> </ul> <p>Suggestions include:</p> <ul style="list-style-type: none"> <li>• Changing the language in the Procedures to allow small jurisdictions to directly apply for QECB Reallocation.</li> </ul>	Dominic DiMare, City of West Sacramento	<p>This proposal should be accepted. Limiting the reallocation of QECB allocation to large local governments would provide an unnecessary barrier to small jurisdictions that could utilize this financing tool. Staff recommends that the definition of eligible applicants be expanded to include all cities and counties in the State of California.</p>	A