



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: September 20, 2017

TO: Low Income Housing Tax Credit Project Sponsors

FROM: The California Tax Credit Allocation Committee – Compliance Section

RE: Tax Credits and Ownership Transfers (Updated)

The California Tax Credit Allocation Committee (TCAC) periodically receives requests from project sponsors to sell or transfer ownership interests in existing tax credit projects. As part of our due diligence in processing such requests, TCAC staff must perform a qualifications review to determine if sufficient project development and property management experience exists for the newly proposed owner and property management organization. TCAC regulations (Section 10320(b), 10325(c)(2), and Section 10326 (g) (5)) specifically identify general partner and property management experience requirements. In order to facilitate the qualifications review and before we can make a recommendation for approval, staff has developed the following questionnaire and checklist of required items that must be submitted to TCAC.

In addition, Section 10302(b)(2) of the regulations require that all transfer events, as defined in Section 10302(qq), shall obtain the prior written approval of the Executive Director and are conditioned upon the post-transfer event owner entering into a specified covenant with TCAC relating to the rehabilitation needs of the project. All transfer events that include properties that received a 4% tax credits in conjunction with a bond allocation from the California Debt Limitation Allocation Committee (CDLAC), must also inform CDLAC about the intention to complete a transfer event on the property.

In order to facilitate the review of one or both types of requests and before we can make a recommendation for approval, staff has developed the following questionnaire to help you determine if you are subject to one or both of the reviews and, if so, a checklist of required items that must be submitted to TCAC:

Please complete the following and submit with corresponding documentation:

1. Is there a transfer of project ownership (including changes to any general partner, member, or equivalent responsible party but not including substitution of a limited partner)?

- Yes
- No

2. Is there a Transfer Event that consists of one of the following:

- A. Transfer of ownership interests of a project
- B. The sale or assignment of a partnership interest in a project
- C. The refinancing of secured debt on a project

3. Does your Transfer Event qualify for one of the following exemptions:

- Yes
- No

If Yes, please indicate which exemption the Transfer Event meets:

- A. The project consists of less than 50% Tax Credit units
- B. a transfer of the project or a partnership or membership interest in a project owner in which the debt encumbering the project is not increased, refinanced or otherwise modified [Please provide a sources/ uses worksheet]
- C. a refinancing of project debt which does not increase the outstanding principal balance of the debt other than in the amount of the closing costs and fees paid to the project lender and third parties as transaction costs [Please provide a sources/ uses worksheet]
- D. a replacement of a general partner by the limited partner upon the occurrence of a default by a general partner in accordance with the partnership agreement of the project owner [Please provide a copy of the default notice and final documentation of replacement.]
- E. a transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party [Please provide evidence of foreclosure or deed in lieu of foreclosure by mortgage lender]
- F. a project that is subject to a Capital Needs Covenant and is now being transferred in connection with a new reservation of 9% or 4% tax credits (i.e., resyndication)
- G. a transfer of the ownership of a project subject to an existing tax credit regulatory agreement with a remaining term of five (5) or less years that is made in connection with a new reservation of 9% or 4% tax credits (i.e., resyndication)
- H. a sale of a project, or the sale or assignment of a partnership interest in a project owner, to an unrelated party for which the parties entered into a purchase agreement prior to October 9, 2015 [Please provide a copy of the purchase agreement]

4. Does your Transfer Event qualify for a full waiver from the Capital Needs Covenant because there are no distributions of Net Project Equity from the Transfer Event to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited

partner(s) as a result of the Transfer Event. [Please provide a Sources/ Uses worksheet which computes net project equity as defined in TCAC regulation section 10302 (cc)]:

- Yes
- No

5. Does your Transfer Event qualify for a modification of the Capital Needs Covenant requirements because there is insufficient Net Project Equity to fund all of the work contemplated by the Qualified Capital Needs Assessment?

- Yes
- No

If Yes, please provide:

- A Sources/ Uses worksheet which computes net project equity as defined in TCAC regulation section 10302 (cc). TCAC staff will use the sources/ uses worksheet to determine if the request for a partial modification will be approved. If the worksheet shows net project equity derived is not sufficient to complete the required short term work, then the provider of the Qualified Capital Needs Assessment shall update the reserve study to include the costs of short term work that cannot be funded in the costs of the long term work to be funded with annual deposits to replacement reserve accounts.

Required documents:

A. **Subject only to Section 10320(b)(1).** If the answer to Question 1 is Yes and:

- a. Question 2 is checked box A or B AND one of the following applies:
 - i. Question 3 is checked Yes and has one or more exemptions noted OR
 - ii. Question 4 is checked Yes

Please provide the following information:

- Letter from current owner of record notifying TCAC of the proposed sale of existing tax credit project including TCAC project name and number
- A copy of the Purchase/Sales Agreement
- A Sources and Uses worksheet including net equity distribution to the seller
- An Assignment and Assumption Agreement (buyer assumes TCAC regulatory agreement). Agreement should include the CTCAC # of the project.
- A copy of the filing of the newly formed ownership entity with the California Secretary of State's Office (*Not needed if box B is checked on Question 2*)
- IRS letter which shows the federal taxpayer identification number for the new ownership entity (*Not needed if box B is checked on Question 2*)
- Organization Chart showing the newly proposed ownership structure
- A completed TCAC Project Ownership Profile Form (POP), identifying the new ownership entity and property management (PM) agent
- Property Management Agreement for project (if applicable)
- TCAC Stand Still Agreement if the acquisition is being financed which can be accessed from our website at: <http://www.treasurer.ca.gov/ctcac/compliance.asp>

- Financial statements for new ownership entity including General Partner(GP) or Administrative General Partner (AGP)
- Completed TCAC application attachments 21 and 22 evidencing GP, AGP and PM experience which can be accessed from our website at: <http://www.treasurer.ca.gov/ctcac/compliance.asp>
- Completed Project Status Report (PSR) which can be accessed from our website at: <http://www.treasurer.ca.gov/ctcac/compliance.asp>
- A statement of the current BINs and unit mix of the property. Please provide an additional explanation if this mix differs from the Recorded Regulatory Agreement.
- A statement of how much will rents increase after the transfer of ownership interests occurs.
- Confirmation letter from current owner confirming that seller will transfer tenant records and all tenant demographic data collected up to the date the sale closes escrow to the buyer and their property management agent
- Completed TCAC Annual Owner Certification (AOC) Form and TCAC Annual Operating Expense (AOE) reports
- Copy of a written letter stating whether the project will be applying for a re-syndication of tax credits
- IRS tax filing Form 990 for non-profit organization (if applicable)

B. Subject to both Section 10320(b)(1) and Section 10320(b)(2). If the answer to

- a. Question 1 is yes,
- b. Question 2 is checked box A or B,
- c. Questions 3 and 4, are checked No,

Please provide the following information:

- Letter from current owner of record notifying TCAC of the proposed sale of existing tax credit project including TCAC project name and number
- A copy of the Purchase/Sales Agreement
- A Sources and Uses worksheet including net equity distribution to the seller
- An Assignment and Assumption Agreement (buyer assumes TCAC regulatory agreement). Agreement should include the CTCAC # of the project.
- A copy of the filing of the newly formed ownership entity with the California Secretary of State's Office *(Not needed if box B is checked on Question 2)*
- IRS letter which shows the federal taxpayer identification number for the new ownership entity *(Not needed if box B is checked on Question 2)*
- Organization Chart showing the newly proposed ownership structure
- A completed TCAC Project Ownership Profile Form (POP), identifying the new ownership entity and property management (PM) agent
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- A statement of the current BINs and unit mix of the property. Please provide an additional explanation if this mix differs from the Recorded Regulatory Agreement.
- A statement of how much will rents increase after the transfer of ownership interests occurs.
- Confirmation letter from current owner confirming that seller will transfer tenant records and all tenant demographic data collected up to the date the sale closes escrow to the buyer and their property management agent
- Completed TCAC Annual Owner Certification (AOC) Form and TCAC Annual Operating Expense (AOE) reports
- Copy of a written letter stating whether the project will be applying for a re-syndication of tax credits
- IRS tax filing Form 990 for non-profit organization (if applicable)
- Sources and Uses worksheet as noted in the question response
- Copy of a current Qualified Capital Needs Assessment, as defined in Section 10302(ff), for the property
- Copy of the Capital Needs Covenant – Ownership Transfer which can be accessed from our website at: <http://www.treasurer.ca.gov/ctcac/compliance.asp>

C. Subject only to Section 10320(b)(2) [Sale of Limited Partner Interest with Distributions]. If the answer to:

- a. Question 1 is No,
- b. Question 2 is checked box A or B,
- c. Question 3 is checked No,
- d. Question 4 is checked No

Please provide the following information:

- Letter from current owner of record notifying TCAC of the proposed sale of existing tax credit project including TCAC project name and number
- Sources and Uses worksheet as noted in the question response indicating the net equity distribution
- Copy of a current Qualified Capital Needs Assessment, as defined in Section 10302(ff), for the property
- Copy of the Capital Needs Covenant – Ownership Transfer which can be accessed from our website at: <http://www.treasurer.ca.gov/ctcac/compliance.asp>

D. Subject only to Section 10320(b)(2) [Refinance]. If the answer to:

- a. Question 1 is no,
- b. Question 2 is checked box C
- c. Question 3 is no,

d. Questions 4 is checked No,

Please provide the following information:

- Letter from current owner of record notifying TCAC of the proposed refinance of existing tax credit project including TCAC project name and number
- TCAC Stand Still Agreement if the acquisition is being financed which can be accessed from our website at: <http://www.treasurer.ca.gov/ctcac/compliance.asp>
- A copy of the Sources and Uses worksheet indicating the net equity distribution
- Copy of a current Capital Needs Assessment for the property
- Copy of the Capital Needs Covenant- Refinance which can be accessed from our website at: <http://www.treasurer.ca.gov/ctcac/compliance.asp>

E. **Other.** If the answer to:

- a. Question 1 is no
- b. Question 2 is any of the 3 options (A, B or C)
- c. Question 3 or 4 is checked yes

Please provide the following information:

- Letter from current owner of record notifying TCAC of the proposed transfer of existing tax credit project including TCAC project name and number.

Please note: No additional documentation is required other than the documentation specified in the exemptions for Question 3 and the notation in Question 4.

If the responses noted on the completed Questionnaire do not match any of the above scenarios or if you have any additional questions, please contact Compliance Program Managers, Ammer Singh at (916) 653-4644 or via email at asingh@treasurer.ca.gov or Shannon Nardinelli, at (916) 651-0411 or via email at snardinelli@treasurer.ca.gov for guidance.