Fall 2015 Regulation Changes

California Tax Credit Allocation Committee

Mark Stivers, Executive Director

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Provisions Specific to 4%

Tax Credit Projects

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Acquisition Basis for Low-Value Projects

- Allow applicants to forego an appraisal and use as the acquisition basis the amount of debt encumbering the property.

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Minimum Rehab Thresholds

- Increase minimum rehabilitation threshold to $15,000 per unit in rehab and $20,000 per unit if a resyndication.

4

4% Developer Fees

- In projects with public subsidy, 5% of acquisition basis and 15% of improvement basis with any amount over $2.5 million deferred or contributed.
  - The threshold at which deferral or contribution starts increases by $5,000 per unit for each unit over 100.

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4% Developer Fees (cont'd)

- In projects without public subsidy, $2.5 million + 10% of improvement basis and 5% of acquisition basis above $2.5 million.
  - If the project includes 20% of units at 50% AMI, the developer may receive 15% of improvement basis and 5% of acquisition basis above $2.5 million.

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4% Plus State Credit Applications

- Require projects to apply to CDLAC within 10 days after a TCAC reservation, as opposed to by the TCAC application deadline.
- Make all state credits in 4% setaside available during the first round to maximum score projects and hold any remainder until the second round.
- Accept applications for State Farmworker Credits to be used with 4% federal credits over the counter.

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Provisions Specific to 9%

Tax Credit Projects

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Protecting DDA Status

- Grandfather for one year the DDA status of any 9% project that loses DDA status.

9

Cap on 9% Tax Credit Awards

- Increase the $2.5 million cap on the maximum annual federal credit award by $10,000 per unit for each unit over 100 up to a maximum of $3 million.

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Native American Apportionment

- Continue Native American apportionment without a sunset.
- Clarify that TCAC may award all credits available in this apportionment during the first round.
- Allow projects sponsored by a tribe to be off reservation, provided the units are reserved for tribal households.

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Native American Apportionment

- Allow tribal communities to score points in the general partner and management company experience categories on their own and require applicants to score the minimum points in these categories.
- Disregard site amenity points within the Native American apportionment.

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9% Acquisition/Rehabilitation Projects

- Create a 15% goal (20% in rural areas) for acquisition and/or rehabilitation projects.
- Require acquisition and/or rehabilitation projects to demonstrate that they are not feasible as 4% projects.

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Special Needs Projects

- Increase the special needs housing type goal to 25%.
- Eliminate the requirement for special needs projects to meet extra housing type and clarify the minimum construction standards for non-special needs units.

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Homeless Assistance Priority

- Within the homeless assistance priority set a minimum contribution from the identified funding sources at $500,000 or $10,000 per total units, whichever is greater.

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Site and Service Amenity Points

- Widen radii for site amenities.
- Provide site amenity points for the provision of transit passes.
- Allow site amenity points for being in a high-quality school area, once the Academic Performance Index is updated.
- Require applicants to provide committed services for 15 years.

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Sustainability Points

- Set maximum points at 5.
- Allow energy efficiency points in lieu of certification points.
- Recalibrate energy efficiency and zero net energy levels.
- Allow points for the use of rainwater, greywater, or recycled water for irrigation.
- Remove continual staff training requirement from the sustainable building management category and reduce points from 3 to 2.

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Tiebreaker

- Alter the public funds factor of the tiebreaker to count leveraged soft resources, including public or private soft loans and land donations from unrelated entities (and land donations from related entities on a case by case basis).

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Tiebreaker (cont'd)

- Multiply the leveraged soft resources factor of the tiebreaker by a size factor: 50% + units/140.
- Alter the credit efficiency factor in the tiebreaker by adding back leveraged soft resources that supplant eligible basis.

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High-Cost Projects

- Require high-cost projects seeking Committee approval to come before the Committee no later than the first meeting after the application deadline.
- Allow negative points for projects awarded credits in 2016 or after that exceed 140% of most recent threshold basis limit at placed in service.

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Right of First Refusal

- Subject new projects with only non-profit general partners to a right of first refusal for the general partners to purchase the project for debt plus taxes.

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Provisions Applicable to Both

4% and 9% Tax Credit Projects

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Scattered Site Projects

- Allow any number and location of sites for a scattered-site acquisition and/or rehabilitation project with a pre-existing project-based Section 8 contract in effect for all the sites.

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Scattered Site Projects (cont'd)

- Allow scattered site rehabilitation projects of up to 5 existing affordable housing developments (or more if approved by the Executive Director) if all sites are either within the boundaries of the same city, within a 10-mile diameter circle in the same county, or within the same county if no location is within a city having a population of 500,000 or more.

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Scattered Site Projects (cont'd)

- Limit new construction projects and all other acquisition and/or rehabilitation projects to five scattered sites with all sites within a 1 mile diameter circle within the same county.
- Allow scattered site rehabilitation projects to meet project type requirements at each site independently.
- For all scattered site projects, require files to be brought to one location for inspection upon request of TCAC.

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Minimum Rehab Thresholds

- Exclude costs of improvements to leasing offices, parking facilities, or landscaping from threshold calculation (but not basis).

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Resyndication Projects

- Require resyndication projects to keep existing affordability for another 55 years but allow waivers for projects with negative cash flow or specified losses of rental or operating subsidy.
- Require resyndication projects to use all funds in reserve accounts for rehabilitation of the property.

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Minimum Construction Standards - Energy

- Require applicants to consult with the design team and energy efficiency experts early in the project design process to identify and consider cost-effective energy efficiency or generation measures beyond those required.
- Require building to code for new construction.

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Minimum Construction Standards – Energy (cont'd)

- Maintain 10% improvement requirement for rehabilitation projects generally at the project level and expand the lookback period for recent energy efficiency improvements to 5 years, including government programs.
- 4% threshold basis increase for newly constructed projects that are 15% or more energy efficient than the 2013 code.

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Minimum Construction Standards

- Clarify that specified minimum construction standards only apply in rehabilitation projects if the items are being provided or replaced.
- Require roofs to be replaced if they have 10 years or less of useful life.
- Eliminate flooring requirement.
- Clarify size of energy efficient water heaters.

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Minimum Construction Standards

- Cap the maximum number of managers' units at 4. Allow projects to forego a manager's unit if the appropriate number of property managers are employed full time on-site and the project has an equal number of security or desk staff on site at all other times. Disallow waivers to the manager's unit requirement.
- Apply 10%/4% accessibility requirement to new construction only.

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Threshold Basis Limit Increases

- Prohibit basis boost for structured parking for spaces beyond 1 space for studio/1 bedroom units and 1.5 space for 2+ bedroom units.

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Threshold Basis Limit Increases

- Allow prevailing wage basis boost for projects required to pay prevailing wages as a result of receiving funds from a labor-affiliated lender.
- Allow an additional 5% threshold basis limit boost for projects that are subject to a project labor agreement or that use a skilled and trained workforce, as defined.

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Rent Increases

- Prohibit rent increases on units at 50% or greater AMI from exceeding 5% per year.

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Proceed Distributions

- With respect to new projects, prohibit any distribution from refinancing or sale proceeds to an owner unless all rehabilitation work determined by a capital needs assessment (CNA) to be necessary within 15 years is completed within one year. TCAC shall not approve a change of ownership or stand still agreement unless the owner agrees to amend the regulatory agreement accordingly and set aside adequate funding for the rehabilitation. The costs of any rehabilitation items left uncompleted shall be excluded from basis if an owner resyndicates.

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Proceed Distributions (cont'd)

- With respect to existing projects that seek to resyndicate and from which sale or refinance proceeds have been distributed to owners over the previous 15 years, exclude from basis the costs of rehabilitation determined to be necessary by a 15-year CNA, up to the cumulative amount of proceed distributions.

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Proceed Distributions (cont'd)

- If a resyndication provides for the distribution of sale proceeds to a seller, exclude from basis the costs of rehabilitation determined to be necessary by a 15-year CNA. 55-year seller carry back notes are exempt.

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Proceed Distributions (cont'd)

- For new projects with in which at least 50% of the units receive rental assistance, generally limit the cumulative distribution from refinancing and sale proceeds over the most recent 15-year period such that the distributions do not exceed the difference between the value of the property based on tax credit rent limits and the debt encumbering the property.

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Appraisals and Welfare Exemption

- Require that an appraisal exclude the value of the property tax welfare exemption unless the owner can demonstrate that the welfare exemption was reflected in the purchase price when the current owner initially acquired the project.
- Require projects seeking approval of a change of ownership or stand still agreement to provide an appraisal meeting these standards.

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Accountability

- Institute fines for non-compliance during the extended use period and allow liens for non-payment.
- Authorize TCAC to audit final cost certifications for accuracy and reasonableness.
- Require certification of cash flow limits for projects with state credits subject to such limits.

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Accountability (cont'd)

- Allow the imposition of negative points for serious failure to submit required compliance documentation.
- Allow for the imposition of negative points for failure to comply with a requirement of the regulatory agreement.

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Submitting Comments

Comments may be submitted:

- At today's public hearing.
- In writing by 5:00 pm on Monday, August 31, 2015.

  Tax Credit Allocation Committee
  915 Capitol Mall, Room 485
  Sacramento, CA 95814
- Via e-mail by 5:00 pm on Monday, August 31, 2015 to mark.stivers@treasurer.ca.gov.

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