# CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: December 1, 2016

TO: Tax Credit Stakeholders

FROM: Mark Stivers, Executive Director

SUBJECT: 2016 Final Proposed Regulation Changes and Responses to Comments

On September 15, 2016 the California Tax Credit Allocation Committee (TCAC or the Committee) released proposed regulation changes. TCAC staff subsequently held four public hearings on the following dates:

- Oakland, October 4, 2016
- San Diego, October 5, 2016
- Los Angeles, October 6, 2016
- Sacramento, October 7, 2016

TCAC accepted written comments on these initial proposed regulation changes through Monday, October 31, 2016. Numerous individuals, organizations, and groups formally commented on the proposed regulation changes. TCAC staff carefully considered all comments received and has finalized the recommendations to the Committee for consideration and adoption on Wednesday, December 14, 2016.

Attached are two documents: 1) The final proposed regulation changes; and 2) a matrix with the comments received and staff's responses to those comments, including an explanation of the proposed revisions. Revisions to the initially proposed changes are highlighted in yellow. This memorandum summarizes the revisions to the initially proposed changes using the original item numbers. For any items not referenced, staff continues to propose those changes without revision.

**<u>New Items</u> [Item 110 is proposed on an emergency basis. Items 111 and 112 respond to comments made in relation to Item 11.]**

110. Give the Executive Director flexibility for 2016 reservations only to not rescind an award or impose negative points for failure to meet a 90-day letter of intent or 180- or 194-day closing deadline if the circumstances were entirely outside of the applicant's control. Section 10325(c)(8). Page 24.

111. Provide that initial application errors resulting in a shortage of sources of $50,000 or less shall be deemed covered by the contingency line item. Section 10327(a). Page 38.

112. Allow applicants to correct cash flow shortages or overages of $5000 or less at placed in service. Section 10327(g). Page 45.

**Items Withdrawn**

18. Allow existing projects receiving awards from the Multifamily Affordable Housing Solar Roofs Program to utilize the CUAC. Section 10322(h)(21).

29. Provide that a project's tie-breaker shall not be reduced for off-site costs if the total off-site costs are less than or equal to $100,000. Section 10325(c)(1)(C).

46. Allow rehabilitation projects seeking points for photovoltaic generation to meet the certification requirements from the new Multifamily Affordable Housing Solar Roofs Program (MAHSRP). Section 10325(c)(6)(G) 6. (i). Page 34.

73. Prohibit new construction, large-family, competitive tax credit projects in areas of low-opportunity unless the project is part of a concerted community revitalization program involving the local government and significant investment outside of the project. Section 10325(g)(1)(J).

**Items Revised**

2. With respect to the first priority for homeless assistance projects in the nonprofit setaside: 1) continue to reference CalHFA's Local Government Special Needs Housing Program and HCD's No Place Like Home Program in the list of enumerated programs receiving priority but also add the Governor's Homeless Initiative; 2) continue to combine the first priority (projects with funding from enumerated programs) and second priority (projects with rental or operating assistance funding); and 3) alter the proposed targeting requirement for homeless assistance units to A) apply it only to projects seeking the combined first priority, B) require applicants to reserve units only for 60 days, C) replace the reference to "the relevant Continuum of Care from a list of most of vulnerable persons" with a reference to "the relevant coordinated entry or access system," D) additionally allow referrals from the relevant behavioral health department from a list of persons with chronic behavioral health conditions who require supportive housing; and E) require applicants to enter into an MOU with the relevant department or system administrator prior to placing in service. Section 10315. Page 1.

5. Continue to address the over-allocation of state credits by using DDA status but alter the method by which this is accomplished. Instead of making the substitution during the sort and prior to reservation, TCAC post reservation will implement a mandatory exchange of state credits for federal credits for those projects for which there are insufficient state credits. The revisions further use clearer "shall designate" language and clarify that the exchange will yield equal equity. Section 10317(c). Page 5.

8. Continue to enact regulation changes necessary to implement SB 837 allowing for the outright sale ("certification") of state credits but 1) require applicants for certificated state credits to be non-profit entities; and 2) delete the paragraph seeking to clarify the statutory requirement that the buyer be or have been an investor in state or federal tax credits for any other California project. Section 10317(k). Page 6.

11. Continue to eliminate the “reproduction or applicant assembly error” exception to the requirement that TCAC shall not accept additional documentation from the applicant after the application deadline but allow for clear scanning errors in which no more than half of the pages in a document are missing. Section 10322(e). Page 9.

12. Continue to clarify that neither scores nor credit amounts can increase but can decrease as a result of allowable staff adjustments to development and operational costs but remove the reference to tiebreakers. Section 10322(f). Page 10.

13. Further clarify the types of applications that must submit an appraisal. Section 10322(h)(9). Page 10.

17. Continue to require all market studies to calculate the project’s lifetime rent benefit but clarify that failure to provide this calculation at application will not result in disqualification, provided that the applicant provides the calculation prior to reservation. Section 10322(h)(10). Page 11.

20. Continue to eliminate the ability of a project sponsor to perform a capital needs assessment but restore the ability of a project architect to do so. Section 10322(h)(26)(B). Page 12.

21. Further clarify that TCAC requires a pre-rehabilitation reserve study. Section 10322(h)(26)(B). Page 12.

27. Continue to delete an outdated reference to the “pilot” Native American apportionment but also clarify that tribal funds are public funds and delete further obsolete language relating to 2015 VHHP and AHSC awards. Section 10325(c)(1)(C). Page 16.

28. Continue to alter how rental assistance is valued for purposes of both point scoring and the tiebreaker in 2018 and beyond but 1) amend the tranche B formula to calculate the rent differential based on the difference between the contract rent and 40% AMI rents (30% AMI rents for special needs/SRO projects), as opposed to 50% AMI rents (40% AMI rents for special needs/SRO projects); 2) restore tiebreaker credit for operating subsidies and calculate the value of the operating subsidies by using the same tranche B formula except that the annual rent differential shall equal the annual subsidy amount in year 1, provided the subsidy will be of a similar amount in succeeding years, or the aggregate subsidy amount of the contract divided by the number of years in the contract if the contract does not specify an annual subsidy amount. Section 10325(c)(1)(C). Page 16.

30. With respect to applicant experience points, continue to require accountant to certify positive cash flow based on a project’s last financial statement, as opposed to a statement less than one year old, but also create an exemption from the 60-day requirement such that a general partner or key person who has no current projects which are eligible for points may submit a cash flow certification dated after the date on which the general partner or key person separated from the last eligible project. Section 10325(c)(2)(A)(i). Page 18.

37. Continue to allow five sustainability points for new construction projects for certification from the PHIUS, Passive House, and Living Building Challenge programs and one point for WELL certification and further allow five points for National Green Building Council silver or higher rating. Section 10325(c)(6)(A). Page 21.

38. Continue to reference the 2016 building codes in the energy efficiency point standards but 1) reduce the efficiency thresholds from 15% and 9% over 2013 codes to 12% and 7% over 2016 codes; and 2) continue to be hold projects projects for which the local building department has determined that building permit applications submitted on or before December 31, 2016 are complete to the 2013 standards and point thresholds. Section 10325(c)(6)(B). Page 21.

39. Continue to require that each building in a new construction project receive at least half the percentage of energy efficiency improvement for which the project is seeking points but allow a waiver. Section 10325(c)(6)(B). Page 21.

40. Further clarify the definition of "high-rise multifamily" for purposes of energy efficiency points by referring to the Energy Code. Section 10325(c)(6)(B). Page 21.

41. Continue to allow five sustainability points for rehabilitation projects for certification from the PHIUS, Passive House, and Living Building Challenge programs and one point for WELL certification and further allow five points for National Green Building Council silver or higher rating. Section 10325(c)(6)(C). Page 22.

42. Continue to require that each building in a rehabilitation project receive at least half the percentage of energy efficiency improvement for which the project is seeking points but allow a waiver. Section 10325(c)(6)(D). Page 23.

43. Continue to establish a minimum of 30% reduction in tenant loads to receive points photovoltaic generation but correct a drafting error. Section 10325(c)(6)(E) 1. Page 23.

44. Allow water efficiency points for projects that use no irrigation at all, that irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens), or that irrigate with reclaimed water, greywater, or rainwater in an amount that annually equals or exceeds 10,000 gallons or 150 gallons per unit, whichever is less. Section 10325(c)(6)(F). Page 24.

47. Continue to allow a water system engineer, HERS Rater, GreenPoint Rater, or LEED Rater to certify compliance with water efficiency point requirements and 1) further allow a landscape architect or NGBS Green Verifier to certify; and 2) conform the language to reflect the revised requirements of item 44. Section 10325(c)(6)(G) 7. Page 24.

49. Continue to exempt hard loans for which the applicant is not seeking public funds points or tiebreaker benefit from the readiness point requirement to have all environmental review complete and further clarify that tranche B loans are also exempt. Section 10325(c)(8). Page 24.

50. With respect to the tiebreaker in 2018 and beyond, discount the value of assumed or recycled loan proceeds by 50% only for projects in the rural set-aside that do not have existing regulatory agreements that limit average rents to 45% AMI or less or that have rental assistance above these rents. Further clarify that bridge loans less than five years old shall not be considered assumed loans for this purpose. Section 10325(c)(10)(A). Page 26.

51. Continue to exclude seller carryback notes or loans that derive directly or indirectly from sale proceeds from tiebreaker benefit in 2018 and beyond but restore tiebreaker benefit for public seller carryback land loans to new construction projects. Section 10325(c)(10)(A). Page 26.

52. Further clarify that land donations or soft financing will not receive tiebreaker credit if they come from a partner or proposed partner in the limited partnership and that land donations shall not involve land that has been owned previously by a related party or a partner or proposed partner, except as specified. Section 10325(c)(10)(A). Page 26.

61. Continue to allow the CABEC Certified Energy Analyst to have a 2013 or 2016 certification and further allow consultation with NGBS Green Verifiers. Section 10325(f)(7)(A). Page 30.

62. Continue to exempt projects with Passive House Institute US (PHIUS), Passive House, or Living Building Challenge certification from the sustainable building methods workbook requirement and further exempt projects with National Green Building Council silver or higher certification. Section 10325(f)(7)(A). Page 30.

63. Re-correct a mistaken cross-reference to the CDLAC regulations. Section 10325(f)(7)(A). Page 30.

65. Continue to clarify accessibility requirements for both new construction and rehabilitation projects and further correct a drafting error. Section 10325(f)(7)(K). Page 31.

66. Allow the Director to approve a waiver to accessibility requirements if the applicant and architect can demonstrate impracticality or undue financial burden, as opposed to just excessive expense. Section 10325(f)(7). Page 31.

67. Continue to update the documentation requirements relating to verification of compliance with minimum construction standards at placed in service and further reference NGBS silver or higher certification and correct a cross-reference. Section 10325(f)(7). Page 31.

70. Further define "play/recreational facilities" required for the large family housing type and allow a waiver for rehabilitation projects with existing facilities. Section 10325(g)(1)(D). Page 33.

80. Continue to require a 9% resyndication project to provide a similar level of services as to what was required under the previous regulatory agreement and allow waivers under specified circumstances but 1) clarify that a project obtaining maximum TCAC service points has met the requirement, and 2) expand the hardship provision to projects exhibiting cash flow of less than $20,000 in each of the last three years and to proejcts that will have no hard debt and fail to break even in year 15 with services. Section 10325(i)(11)(A). Page 35.

83. Continue to require resyndication applicants to demonstrate in their capital needs assessment that the project has a specified rehabilitation need within the next seven years but reduce the threshold from $20,000 per unit to $15,000 per unit. Section 10326(g)(7). Page 37.

84. Continue to require a 4% resyndication project to provide a similar level of services as to what was required under the previous regulatory agreement and allow waivers under specified circumstances but 1) clarify that

a project obtaining maximum CDLAC service points has met the requirement, and 2) expand the hardship provision to projects exhibiting cash flow of less than $20,000 in each of the last three years and to proejcts that will have no hard debt and fail to break even in year 15 with services. Section 10326(g)(8). Page 37.

88. Continue to correct a mistaken cross-reference and further delete a sentence in conflict with other portions of the regulations. Section 10327(c)(5). Page 40.

89. Continue to clarify that the architect certification for threshold basis limit increases must be included in both the initial and placed in service application and further update incorrect terminology. Section 10327(c)(5)(A). Page 40.

91. Continue to reflect the new 2016 building code in the threshold basis limit increase for energy efficiency but continue applying the 2013 building code to projects for which the local building department has determined that building permit applications submitted on or before December 31, 2016 are complete. Section 10327(c)(5)(B)(3). Page 41.

92. Alter the minimum offset to receive the threshold basis limit increase for water efficiency to 100% of irrigation needs, 20,000 gallons annually, or 300 gallons per unit, whichever is less. Section 10327(c)(5)(B)(5). Page 42.

93. For threshold basis limit increases related to sustainability, allow certification PHIUS, Passive House, or Living Building Challenge raters and further include NGBS Green Verifiers on the list. Section 10327(c)(5)(B). Page 42.

94. For threshold basis limit increases verified with the sustainable building methods workbook, continue to delete the requirement for the applicant to also submit the energy consumption and analysis report and further clarify how the percentage offset of the tenant load is calculated. Section 10327(c)(5)(B). Page 42.

95. Continue to allow a water system engineer to certify achievement of the water efficiency threshold basis limit increase requirements and further allow a landscape architect to do so. Further refine the language regarding what the verifier must certify. Section 10327(c)(5)(B). Page 42.

98. Continue to provide a 10% threshold basis limit increase for projects in high-opportunity areas, as defined, and further correct terminology. Section 10327(c)(5)(F). Page 43.

99. Continue to relocate and rework the underwriting standards for land and improvement values and further clarify 1) that for non-competitive projects with donated land no appraisals are required and the land value shall be zero; and 2) that related party transactions shall be underwritten using the lesser of the current purchase price or appraised value associated with the tax credit transfer. Section 10327(c)(6). Page 43.

101. Alter the proposed requirement that new construction projects exceeding the AB 744 parking ratios exclude the cost of the excess parking spaces from basis by 1) applying the requirement only to 9% projects; 2) grandfathering in projects that received land use entitlements on or before December 31, 2016; 3) increasing the threshold to 1 space per unit for both large family TOD projects and senior projects outside of TOD areas; and 4) clarifying the ratios for special needs projects with non-special needs units. Section 10327(c)(10). Page 44.

103. Alter the language designating 9% applications seeking state credits for which there are insufficient state credits as DDA projects . Section 10327(d)(3). Page 45.

**2016 Final Proposed Regulation Changes**
**December 1, 2016**
**[Note: See Comment Matrix for Responses to Comments]**

## Section 10302(ff)

## Final Proposed Change:

10302(ff) "Qualified Capital Needs Assessment" shall mean a capital needs assessment for a property subject to a Transfer Event dated within one hundred eighty (180) days of the proposed Transfer Event which (i) meets the requirements of (a) the Fannie Mae Multifamily Instructions for the PNA Property Evaluator, (b) Freddie Mac's Property Condition Report requirements in Chapter 14 of the Small Balance Loan Addendum, (c) HUD's Multifamily Capital Needs Assessment section in Appendix 5G of the Multifamily Accelerated Process Guide, or (d) Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process (ASTM Designation E 2018-08) utilizing a recognized industry standard to establish useful life estimates for the replacement reserve analysis, and (ii) clearly sets forth (a) the capital needs of the project for the next ~~two (2)~~three (3) years (the "Short-Term Work") and the projected costs thereof, and (b) the capital needs of the project for the subsequent ~~thirteen (13)~~twelve (12) years (the "Long Term Work") and the projected contributions to reserves that will be needed to accomplish that work.

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## Section 10315

## Final Proposed Change:

10315 Set-asides and Apportionments

CTCAC will accept applications from Qualified Nonprofit Organizations for the Nonprofit set-aside upon the request of the qualified applicant, regardless of the proposed housing type. Thereafter, CTCAC shall review each non-rural pending competitive application applying as an at-risk, special needs, or SRO housing type under subsection (~~g~~h) below, first, within that housing type's relevant set-aside. In addition, applicants competing within either the At-risk or Special Needs/SRO set-aside shall be considered as that housing type for purposes of paragraph (~~g~~h).

(a) Nonprofit set-aside. Ten percent (10%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects involving, over the entire restricted use period, Qualified Nonprofit Organizations as the only general partners and developers, as defined by these regulations, and in accordance with IRC Section (42)(h)(5).

(b) Each funding round, credits available in the Nonprofit set-aside shall be made available as a first-priority, to projects providing housing to homeless households at affordable rents, consistent with Section 10325(g)(4) in the following priority order:

- First, projects with 1) McKinney-Vento Homeless Assistance Act, MHP-Supportive Housing Program, HCD Veterans Housing and Homeless Prevention Program, ~~or~~ Mental Health Services Act (MHSA), CalHFA Local Government Special Needs Housing Program, Governor's Homeless Initiative, or HCD No Place Like Home development capital funding committed~~. The~~ for which the amount of development capital funding committed shall be at least $500,000 or $10,000 per unit for all units in the project (irrespective of the number of units assisted by the referenced programs), whichever is greater; or 2) ~~.~~

- ~~Second,~~ projects with rental or operating assistance funding commitments from federal, state, or local governmental funding sources. The rental assistance must be sponsor-based or project-based and the remaining term of the project-based assistance contract shall be no less than one (1) year and shall apply to no less than fifty percent (50%) of the units in the proposed project. For local government funding sources, ongoing assistance may be in the form of a letter of intent from the governmental entity. For all projects seeking this first priority, the applicant shall commit to reserving vacant homeless assistance units for 60 days for occupancy by persons or households referred, where such systems or lists exist, by either 1) the relevant coordinated entry or access system, 2) the relevant county health department from a list of frequent health care users; or 3) the relevant behavioral health department from a list of persons with chronic behavioral health conditions who require supportive housing. The applicant shall enter into a memorandum of understanding with the relevant department or system administrator prior to placing in service unless a reasonable memorandum is refused by the department or administrator.

- ~~Other~~ Second, other qualified homeless assistance projects.

To compete as a homeless assistance project, at least fifty percent (50%) of the units within the project must be designated for homeless households as described in category (1) immediately below:

(1) Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
(A) Has a primary nighttime residence that is a public or private place not meant for human habitation;
(B) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); or
(C) Is exiting an institution and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

(2) Individual or family who will imminently lose their primary nighttime residence, provided that:
(A) Residence will be lost within 14 days of the date of application for homeless assistance;
(B) No subsequent residence has been identified; and
(C) The individual or family lacks the resources or support networks needed to obtain other permanent housing.

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
(A) Are defined as homeless under the other listed federal statutes;
(B) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application;
(C) Have experienced persistent instability as measured by two moves or more during the preceding 60 days; and

(D) Can be expected to continue in such status for an extended period of time due to special needs or barriers.

(4) Any individual or family who:
(A) Is fleeing, or is attempting to flee, domestic violence;
(B) Has no other residence; and
(C) Lacks the resources or support networks to obtain other permanent housing.

~~To compete as a homeless assistance project, the applicant shall commit to reserving vacant homeless assistance units for occupancy by persons or households referred by either 1) the relevant Continuum of Care from a list of most of vulnerable persons, or 2) the relevant county health department from a list of most frequent health care users, where either of such lists exists.~~

Any amount of Tax Credits not reserved for homeless assistance projects during a reservation cycle shall be available for other applications qualified under the Non-profit set-side.

(c) Rural set-aside. Twenty percent (20%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects in rural areas as defined in H & S Code Section 50199.21 and as identified in supplemental application material prepared by CTCAC. For purposes of implementing Section 50199.21(a), an area is eligible under the Section 515 program on January 1 of the calendar year in question if it either resides on the Section 515 designated places list in effect the prior September 30, or is so designated in writing by the USDA Multifamily Housing Program Director. All Projects located in eligible census tracts defined by this Section must compete in the rural set-aside and will not be eligible to compete in other set-asides or in the geographic areas unless the Geographic Region in which they are located has had no other Eligible Projects for reservation within the current year. In such cases the rural project may receive a reservation in the last round for the year, from the geographic region in which it is located, if any.

Within the rural set-aside competition, the first tiebreaker shall be applied as described in Section 10325(c)(10), except that the Senior housing type goal established by Section 10315(~~g~~h) shall be calculated relative to the rural set-aside dollars available each round, rather than against the total credits available statewide each round. In this way, other housing types would be advantaged once the specified percentage of the rural set-aside had been committed to Senior housing type projects.

(1) RHS and HOME program apportionment. In each reservation cycle, fourteen percent (14%) of the rural set-aside shall be available for new construction projects which have a funding commitment from RHS of at least $1,000,000 from either RHS's Section 514 Farm Labor Housing Loan Program, RHS's Section 515 Rural Rental Housing Loan Program, or a reservation from a Participating Jurisdiction or the State of California of at least $1,000,000 in HOME funding.

All projects meeting the RHS and HOME program apportionment eligibility requirements shall compete under the RHS and HOME program apportionment. Projects that are unsuccessful under the apportionment shall then compete within the general rural set-aside described in subsection (c). Any amount reserved under this subsection for which RHS or HOME funding does not become available in the calendar year in which the reservation is made, or any amount of Credit apportioned by this subsection and not reserved during a reservation cycle shall be available for applications qualified under the Rural set-aside.

(2) Native American apportionment. One million dollars ($1 million) in annual federal credits shall be available during the first round and, if any credits remain, in the second round for applications proposing projects on land to be owned by a Tribe, whether the land is owned in fee or in trust, provided that if the land is off reservation occupancy will be legally limited to tribal households. Apportioned dollars shall be awarded to projects sponsored by Tribes using the scoring criteria in Section 10325(c), and achieving the minimum score established by TCAC under Section 10305(h). In addition, tribal communities shall garner the minimum points available for General Partner/Management Company Characteristics under Section 10325(c)(2) or shall partner or contract with a developer and with a property management entity that would garner the minimum points available for General Partner/Management Company Characteristics under Section 10325(c)(2), except that the management company minimum scoring cannot be obtained through the point category for a housing tax credit certification examination.

(d) “At-Risk” set-aside. After accounting for the second supplemental set-aside described in (g), f~~F~~ive percent (5%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects that qualify and apply as an “At risk” housing type pursuant to subsection (~~g~~h) below. Any proposed project that applies and is eligible under the Nonprofit set-aside but is not awarded credits from that set-aside shall be eligible to be considered under this At-Risk set-aside if the project meets the housing type requirements.

(e) Special Needs/SRO set-aside. After accounting for the second supplemental set-aside described in (g), f~~F~~our percent (4%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects that qualify and apply as a Special Needs or Single Room Occupancy housing type project pursuant to these regulations. Any proposed ~~homeless assistance~~ project that applies and is eligible under the Nonprofit Set Aside, but is not awarded credits from that set-aside, shall be eligible to be considered under this Special Needs/SRO set-aside if the project meets the housing type requirements.

(f) First s~~S~~upplemental set-aside. After accounting for the second supplemental set-aside described in (g), a~~A~~n amount equal to three percent (3%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be held back to fund overages that occur in the second funding round set-asides and/or in the Geographic Apportionments because of funding projects in excess of the amounts available to those Set Asides or Geographic Apportionments, the funding of large projects, such as HOPE VI projects, or other Waiting List or priority projects. In addition to this initial funding, returned Tax Credits and unused Tax Credits from Set Asides and Geographic Apportionments will be added to this Supplemental Set Aside, and used to fund projects at year end so as to avoid loss of access to National Pool credits.

(g) Second supplemental set-aside. For each calendar year an amount of the Federal Credit Ceiling determined by the Executive Director, calculated as of February first of the calendar year, shall be held back to fund projects designated as a DDA project pursuant to Section 10327(d)(3).

(h) Housing types. To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below and must meet the applicable “additional threshold requirements” of Section 10325(g), in addition to the Basic Threshold Requirements in 10325(f). The Committee will employ the tiebreaker at Section 10325(c)(10) in an effort to assure that no single housing type will exceed the following percentage goals where other housing type maximums are not yet reached:

**Housing Type Goal**
Large Family 65%
Special Needs 25%
Single Room Occupancy 15%
At-Risk 15%
Seniors 15%

(~~h~~i) Geographic Apportionments. Annual apportionments of Federal and State Credit Ceiling shall bemade in approximately the amounts shown below:

| **Geographic Area** | **Apportionments** |
|---|---|
| City of Los Angeles | 17.6% |
| Balance of Los Angeles County | 17.2% |
| North and East Bay Region (Alameda, Contra Costa, Marin, Napa, Solano, Sonoma Counties) | 10.8% |
| Central Valley Region (Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare Counties) | 8.6% |
| San Diego County | 8.6% |
| Inland Empire Region (San Bernardino, Riverside, Imperial Counties) | 8.3% |
| Orange County | 7.3% |
| Capital and Northern Region (Butte, El Dorado, Placer, Sacramento, Shasta, Sutter, Yuba, Yolo Counties) | 6.7% |
| South and West Bay Region (San Mateo, Santa Clara Counties) | 6.0% |
| Central Coast Region (Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Ventura Counties) | 5.2% |
| San Francisco County | 3.7% |

(~~i~~j) Credit available for geographic apportionments. Geographic apportionments, as described in this Section, shall be determined prior to, and made available during each reservation cycle in the approximate percentages of the total Federal and State Credit Ceiling available pursuant to Subsection 10310(b), after CTCAC deducts the federal credits set aside in accordance with Section 10315(a) through (~~h~~g) from the annual Credit Ceiling.

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**Section 10317(c)**

**Final Proposed Change:**

10317(c) Limit on Credit amount. Except for Special Needs applications described in paragraph (d) below, all credit ceiling applications may request State credits provided the project application is not requesting the federal 130% basis adjustment for purposes of calculating the federal credit award amount. Projects are eligible for State credits regardless of their location within a federal Qualified Census Tract (QCT) or a Difficult Development Area (DDA). Once

~~CTCAC has awarded all state credits available for credit ceiling applications, CTCAC shall not award state credits to any additional credit ceiling projects but shall consider remaining projects seeking state credits as a difficult development area (DDA) pursuant to Section 10327(d)(3).~~ In the event that reservations of state credits to credit ceiling applications exceed the amount of state credits available, CTCAC post-reservation shall designate applications for which there are insufficient state credits as difficult development area (DDA) projects pursuant to Section 10327(d)(3) and exchange state credits for federal credits in an amount that will yield equal equity.

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**Section 10317(d)**

**Final Proposed Change:**

10317(d) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(F)(ii), 17058(b)(2)(E)(ii), and 23610.5(b)(2)(E)(ii), applications for Special Needs projects within a QCT or DDA may request the federal 130% basis boost and may also request State credits, provided that the applicant does not voluntarily reduce basis related to federal tax credits except to reduce the credit request to the amount available in the project's geographic region or the $2.5 million limit. Under authority granted by Internal Revenue Code Section 42(d)(5)(B)(v), CTCAC designates Special Needs housing type applicants for credit ceiling credits as Difficult Development Area projects, regardless of their location within a federally-designated QCT or DDA.

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**Section 10317(j)**

**Final Proposed Change:**

10317(j) All projects that have received state credits shall comply with the limitations on cash distributions required pursuant to Sections 12206(d), 17058(d), and 23610.5(d) of the Revenue and Taxation Code.

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**Section 10317(k)**

**Final Proposed Change:**

10317(k)(1) In the initial application, applicants requesting state credits shall make an irrevocable election to sell ("certificate") or not sell all or any portion of the state credit, as allowed pursuant to Revenue and Taxation Code Sections 12206(o), 17058(q), and 23610.5(r). The applicant for a certificated credit shall be a non-profit entity. After a reservation is made, the applicant may only rescind an election to sell if the state credit pricing falls below the required 80 cents per dollar of credit and with the approval of the Executive Director.

~~(2) At the request of the owner at placed in service, TCAC shall issue the Form 3521A tax forms to a non-profit general partner member of the partnership, which shall not be considered a sale of the credits to another taxpayer or other party.~~

(2~~3~~) An applicant who elects to sell any portion of the state credit and a buyer who later resells any portion of the credit (credits may be resold only once) shall report to CTCAC within 10 days of the sale of the credit, in a form specified by CTCAC, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received for the sale of the credit. At the request of the owner, CTCAC shall reissue the Form 3521A in the name of the buyer.

~~(3) CTCAC shall deem, including but not limited to, the following persons to meet the statutory requirement that a buyer of a certificated state credit be a taxpayer allowed the state low-income housing tax credit for the taxable year of the purchase or any prior taxable year or be a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code for the taxable year of the purchase or any prior taxable year:~~

~~(A) a syndication fund operated by a sponsor who has operated other funds allowed the state or federal credit.~~
~~(B) a syndication fund of which at least 25% is owned by taxpayers allowed the state or federal credit.~~
~~(C) An investor in either of the funds described in paragraphs (A) and (B).~~

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**Section 10320(b)(2)**

**Final Proposed Change:**

10320(b)(2) In addition to any applicable requirements set forth in Section 10320(b)(1), all Transfer Events shall be subject to the prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(3)(M), in addition to other remedies. The following requirements apply to all Transfer Events for which approval is requested on or after October 21, 2015:

(A) Prior to a Transfer Event, the owner of the project shall submit to the Executive Director a Qualified Capital Needs Assessment. In the case of a Transfer Event in which a third-party lender is providing financing, the Qualified Capital Needs Assessment shall be commissioned by said third-party lender.

(B) The entity which shall own the project subsequent to the Transfer Event (the “Post Transfer Owner”) shall covenant to the Committee (the “Capital Needs Covenant”) that the Post Transfer Owner (and any assignee thereof) shall:

(i) set aside at the closing of the Transfer Event adequate funds to perform the Short Term Work (the “Short Term Work Reserve Amount”);

(ii) perform the Short Term Work within ~~two (2)~~three (3) years from the date of the Transfer Event;

(iii) make deposits to reserves as are necessary to fund the Long Term Work, taking into account any balance in replacement reserve accounts upon the conclusion of the Transfer

Event beyond those required by clause (i). Notwithstanding the foregoing, the Post Transfer Owner shall have no obligation to fund any reserve amount from annual operations to the extent that the funding of the reserve causes the project to have a debt service coverage ratio of less than 1.00 to 1.00. In calculating the debt service coverage ratio for the purposes herein, the property management fee shall not exceed the greater of (a) 7% the project's effective gross income, or (b) such amount approved by HUD or USDA, as applicable. Any property management fee in excess of these limitations shall be subordinate to the funding of the required reserves and shall not be considered when calculating the debt service coverage ratio; and

(iv) complete the Long Term Work when required, or prior thereto, pursuant to the Qualified Capital Needs Assessment.

~~(C) The requirements of Section 10337(a)(3), if applicable, are satisfied.~~

The Executive Director may waive or modify the requirements of this Section 10320(b)(2)(A) and (B) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified Capital Needs Assessment. There shall be a presumption that a Transfer Event has insufficient Net Project Equity (and the requirements of this Section 10320(b)(2)(A) and (B) shall be waived) if no Net Project Equity from the Transfer Event is distributed 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.

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**Section 10320(b)(4)**

**Final Proposed Change:**

10320(b)(4) If a projects seeks to receive a new reservation of 9% or 4% tax credits concurrently with a Transfer Event or during the time that the project is subject to a Capital Needs Covenant, the following provisions shall apply in lieu of paragraph (2):

(A) The applicant shall submit a Qualified Capital Needs Assessment. In cases in which a third-party lender is providing financing, the Qualified Capital Needs Assessment shall be commissioned by said third-party lender.

(~~A~~B) ~~The underwriting for the new reservation of 9% or 4% credits shall include a capitalized replacement reserve in an amount equal to the cost of any Short Term Work which will not be performed as of the date of the syndication of the new 9% or 4% tax credits reserved for the project.~~The rehabilitation scope of work shall include all of the Short Term Work.  The applicant may receive eligible basis for the costs of the Short Term Work only if the applicant can demonstrate that the Short Term Work was funded by one of the following:

(i) a credit from the seller of the project equal to the costs of Short Term Work.

(ii) a reduction in the purchase price of the project as compared to the purchase price of the project had the project not been subject to the Transfer Event requirement, as shown by an appraisal that calculates the impact of the Short Term Work requirement on value.
(iii) general partner equity.
(iv) developer fee contributed to the project (a deferred developer fee does not qualify).

(~~B~~C) After the Transfer Event giving rise to the covenant required pursuant to Section 10320(b)(2)(B) (the "Initial Transfer"), if the project will be subsequently transferred in connection with the closing of the new reservation of 9% or 4% credits (a "Subsequent Transfer"), any increase in acquisition price (if the Initial Transfer was a sale) or the project valuation (if the Initial Transfer was a refinancing) between the Initial Transfer and the Subsequent Transfer which is attributable to a reduction in the amount of annual deposits into the replacement reserve account from those required pursuant to Section 10320(b)(2)(B)(iii) because all or a portion of the Long Term Work will be performed in connection with the new reservation of 9% or 4% credits, must be evidenced in the form of (i) a seller carryback note or (ii) a general partner equity contribution.

(~~C~~D) Upon the closing of the syndication of the new 9% or 4% credits reserved for the project, ~~the~~ any Capital Needs Covenant shall automatically terminate without any further action of the project owner and/or the Committee.

The Executive Director shall waive or modify the requirements of this Section 10320(b)(4) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified Capital Needs Assessment. There shall be a presumption that a Transfer Event has insufficient Net Project Equity if no Net Project Equity from the Transfer Event is distributed 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.

~~The Executive Director shall have the authority to waive or modify the requirements of this Section 10320(b)(4) if the owner can demonstrate to the reasonable satisfaction of the Executive Director that the requirements of Section 10320(b)(4) would be overly burdensome or would not be in the best interest of the project.~~ Sections 10320(b)(4)(~~A~~B) and 10320(b)(4)(~~B~~C) shall not be applicable to any project with an existing tax credit regulatory agreement with a remaining term of five (5) or less years.

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**Section 10322(e)**

**Final Proposed Change:**

Section 10322(e) No additional documents pertaining to the Basic or Additional Threshold Requirements or scoring categories shall be accepted after the application-filing deadline unless the Executive Director, at his or her sole discretion, determines that the deficiency is ~~a clear reproduction or application assembly error,~~ a clear scanning error in which no more than half of the pages in a document are missing or an obviously transposed number. In such cases, applicants shall be given up to five (5) business days from the date of receipt of staff notification, to submit said documents to complete the application. For ~~threshold~~ application omissions~~ other than reproduction or assembly errors~~, the Executive Director may request additional clarifying information from third party sources, such as local government entities, but this is entirely at the Executive Director's discretion. Upon the Executive Director's request, the information sources shall be given up to five (5) business days, from the date of receipt of staff notification, to submit said documents to clarify the application. The applicant may be required to certify that all evidentiary documents deemed to be missing from the application had been executed on or prior to, the application-filing deadline. If required documents are not submitted within the time provided, the application shall be considered incomplete and no appeal will be entertained.

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**Section 10322(f)**

**Final Proposed Change:**

10322(f) Application changes. Only the Committee may change an application as permitted by Section 10327(a). Any changes made by the Committee pursuant to Section 10327(a) shall never ~~improve~~ increase the score~~, tiebreaker,~~ or credit amount of the application as submitted~~,~~ and may reduce the application's score~~, tiebreaker,~~ and/or credit amount.

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**Section 10322(h)(9)**

**Final Proposed Change:**

10322(h)(9) Appraisals. Appraisals are required for all rehabilitation applications except as noted in (A), for all competitive applications except for ~~tribal trust land and~~ new construction projects that are on tribal trust land or that that have a third party purchase ~~contracts~~ contract with, or evidence of a purchase from, an unrelated third party, ~~and~~ for all applications seeking competitive points or tiebreaker credit for donated or leased land, and for all new construction applications involving a land sale from a related party. ~~If land is donated or leased from a public entity or available through a related party purchase, an appraisal is required to establish value for competitive scoring.~~

(A) Rehabilitation applications. An "as-is" appraisal prepared within 120 days before or after the execution of a purchase contract or the transfer of ownership by all the parties by a California certified general appraiser having no identity of interest with the development's partner(s) or intended partner or general contractor, acceptable to the Committee, and that includes, at a minimum, the following:

(i) the highest and best use value of the proposed project as residential rental property;
(ii) the Sales Comparison Approach, and Income Approach valuation methodologies except in the case of an adaptive reuse or conversion, where the Cost Approach valuation methodology shall be used;
(iii) the appraiser's reconciled value except in the case of an adaptive reuse or conversion as mentioned in (ii) above;
(iv) a value for the land of the subject property "as if vacant";
(v) an on site inspection; and
(vi) a purchase contract verifying the sales price of the subject property.

~~Except as described below, the “as if vacant” land value and the existing improvement value established at application, as well as the eligible basis amount derived from those values shall be used during all subsequent reviews including the placed in service review, for the purpose of determining the final award of Tax Credits.~~ For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits, the applicant may elect to forego the appraisal required pursuant to this ~~Section 10322(h)(9)~~section and use an acquisition basis equal to the sum of the third party debt encumbering the seller’s property, which may increase during subsequent reviews to reflect the actual amount.

(B) New construction applications. Projects for which an appraisal is required above shall provide an ~~An~~ “as-is” appraisal with a date of value that is within 120 days before or after the execution of a purchase contract or the transfer of ownership by all the parties, or within one year of the application date if the latest purchase contract was executed within that year, prepared by a California certified general appraiser having no identity of interest with the development’s partner(s) or intended partner or general contractor, acceptable to the Committee.

~~All applications, including those funded with tax-exempt bond financing, must include a land cost or value in the Sources and Uses budget. A nominal cost will not be accepted, and costs shall be evidenced by sales agreements, purchase contracts, or appraisals. Tribal trust land is excluded from this requirement. However, existing improvement values must be supported by an appraisal pursuant to this section.~~

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**Section 10322(h)(10)**

## Final Proposed Change:

10322(h)(10) Market Studies. A full market study prepared within 180 days of the filing deadline by an independent 3rd party having no identity of interest with the development’s partners, intended partners, or any other member of the Development Team described in Subsection (5) above. The study must meet the current market study guidelines distributed by the Committee, and establish both need and demand for the proposed project. CTCAC shall publicly notice any changes to its market study guidelines and shall take public comment consistent with the comment period and hearing provisions of Health and Safety Code Section 50199.17. For scattered site projects, a market study may combine information for all sites into one report, provided that the market study has separate rent comparability matrices for each site.

A market study shall be updated when either proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increases by more than 5%, or 180 days have passed since the first site inspection date of the subject property and comparable properties. CTCAC shall not accept an updated market study when more than twelve (12) months have passed between the earliest listed site inspection date of either the subject property or any comparable property and the filing deadline. In such cases, applicants shall provide a new market study. If the market study does not meet the guidelines or support sufficient need and demand for the project, the application may be considered ineligible to receive Tax Credits. Except where a waiver is obtained from the Executive Director in advance of a submitted application, CTCAC shall not reserve credits for a rural new construction application if a tax credit or other publicly-assisted new construction project housing the same population either (a) already has a tax credit reservation from CTCAC, (b) is a higher ranking project that will receive a reservation in the same funding round, or (c) is currently under construction within the same market area. The Executive Director may grant a waiver for subsequent phases of a single project, where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition.

For acquisition/rehabilitation projects meeting all of the following criteria, a comprehensive market study as outlined in IRS Section 42(m)(1)(A)(iii) shall mean a written statement by a third party market analyst certifying that the project meets these criteria:

• All of the buildings in the project are subject to existing federal or state rental assistance or operating subsidies, an existing TCAC Regulatory Agreement, or an existing regulatory agreement with a federal, state, or local public entity.

• The proposed tenant-paid rents and income targeting levels shall not increase by more than five percent (5%) (except that proposed rents and income targeting levels for units subject to a continuing state or federal project-based rental assistance contract may increase more and proposed rents and income targeting levels for resyndication projects shall be consistent with Section 10325(f)(11) or Section 10326(g)(8)).

• The project shall have a vacancy rate of no more than five percent (5%) (ten percent (10%) for Special Needs and SRO projects) at the time of the tax credit application.

All market studies, including the streamlined written statement described above, shall calculate the project's lifetime rent benefit as follows: 1) find the aggregate difference between current monthly market rents and the project's proposed target rents; 2) multiply the difference by 12 to arrive at an annual rent difference; and 3) multiply the annual rent difference by 55 years. A project that fails to provide this calculation at application shall not be disqualified, provided that the applicant provides the calculation prior to reservation.

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**Section 10322(h)(25)(B)**

**Final Proposed Change:**

10322(h)(25)(B) an applicant statement that the acquisition is exempt from, or a third party tax ~~professional's~~ attorney's opinion stating that the acquisition ~~is either exempt from or~~ meets the requirements of IRC Section 42(d)(2)(B)(ii) as to the 10-year placed-in-service rule; and,

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**Section 10322(h)(26)(B)**

**Final Proposed Change:**

10322(h)(26)(B) A Capital Needs Assessment ("CNA") performed 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, distinguishing between immediate and long term repairs. The Capital Needs Assessment ~~will~~ shall also include a pre-rehabilitation15-year reserve study, indicating anticipated dates and costs of future replacements of all current major building components ~~that~~

~~are not being replaced immediately, and the reserve contributions needed to fund those replacements~~. The CNA must be prepared by the project architect, as long as the project architect has no identity of interest with the developer,~~ or a sponsor, ~~ or by a qualified independent 3rd party who has no identity of interest with any of the members of the Development Team. ~~If a waiver of any requirement of the minimum construction standards delineated in section 10325(f)(7) and section 10326(g)(6) is requested, the assessment must show, to the satisfaction of the Executive Director, that meeting the requirement is unnecessary and financially burdensome, and that the money to be spent in rehabilitating other project features will result in a better end product.~~

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**Section 10322(i)**

**Final Proposed Change:**

10322(i) Placed-in-service application. Within one year of completing construction of the proposed project, the ~~applicant~~ project owner shall submit documentation including an executed regulatory agreement provided by CTCAC and the compliance monitoring fee required by Section 10335. CTCAC shall determine if all conditions of the reservation have been met. Changes subsequent to the initial application, particularly changes to the financing plan and costs or changes to the services amenities, must be explained by the ~~applicant~~ project owner in detail. If all conditions have been met, tax forms will be issued, reflecting an amount of Tax Credits not to exceed the maximum amount permitted by these regulations. The following must be submitted:

(1) certificates of occupancy for each building in the project (or a certificate of completion for rehabilitation projects). If acquisition Tax Credits are requested, evidence of the placed-in-service date for acquisition purposes, and evidence that all rehabilitation is completed;

(2) an audited certification, prepared by an independent Certified Public Accountant under generally accepted auditing standards, with all disclosures and notes. The Certified Public Accountant (CPA) or accounting firm shall not have acted a manner that would impair independence as established by the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct Section 101 and the Securities and Exchange Commission (SEC) regulations 17 CFR Parts 210 and 240. Examples of such impairing services, when performed for the final cost certification client, include bookkeeping or other services relating to the accounting records, financial information systems design and implementation, appraisal or evaluation services, actuarial services, internal audit outsourcing services, management functions or human resources, investment advisor, banking services, legal services, or expert services unrelated to the audit. Both the referenced SEC and AICPA rules shall apply to all public and private CPA firms providing the final audited cost certification. In order to perform audits of final cost certifications, the auditor must have a peer review of its accounting and auditing practice once every three years consistent with the AICPA Peer Review Program as required by the California Board of Accountancy for California licensed public accounting firms (including proprietors); and make the peer review report publicly available and submit a copy to CTCAC along with the final cost certification. If a peer review reflects systems deficiencies, CTCAC may require another CPA provide the final cost certification. This certification shall:

(A) reflect all costs, in conformance with 26 CFR §1.42-17, expenditures and funds used for the project, as identified by the certified public accountant, up to the funding of the permanent loan. Projects developed with general contractors who are Related Parties to the developer must be audited to the subcontractor level;

(B) include a CTCAC provided Sources and Uses form reflecting actual total costs incurred up to the funding of the permanent loan; and

(C) certify that the CPA has not performed any services, as defined by AICPA and SEC rules, that would impair independence;

(3) an itemized breakdown of placed-in-service dates, shown separately for each building, on a Committee-provided form. If the placed-in service date(s) denoted are different from the date(s) on the certificate(s) of occupancy, a detailed explanation is required;

(4) photographs of the completed building(s);

(5) a request for issuance of IRS Form(s) 8609 and/or FTB Form(s) 3521A;

(6) a certification from the investor or syndicator of equity raised and syndication costs in a Committee-provided format;

(7) an updated application ~~project ownership profile on a Committee-provided~~ form;

(8) an owner ~~sponsor~~-signed certification documenting the services currently being provided to the residents, including identifying service provider(s), describing services provided, stating services dollar value, and stating services funding source(s) (cash or in-kind), with attached copies of contracts and MOUs for services;

(9) a copy of ~~any cost certification submitted to, required by and/or and approved by RHS or any other lender~~the project owner limited partnership agreement;

(10) a list of all amenities provided at the project site including any housing type requirements of Section 10325(g) committed to in the Tax Credit application, and color photographs of the amenities. If the list differs from that submitted at application, an explanation must be provided; housing type requirements must be completed. In addition, the ~~sponsor~~ project owner must provide a list of any project amenities not included in basis for which the property owner intends to charge an optional fee to residents;

(11) a description of any charges that may be paid by tenants in addition to rent, with an explanation of how such charges affect eligible basis;

(12) if applicable, a certification from a third party tax professional stating the percentage of aggregate basis (including land) financed by tax exempt bonds for projects that received Tax Credits under the provisions of Section 10326 of these regulations;

(13) all documentation required pursuant to the Compliance and Verification requirements of Sections 10325(f)(7) and 10326(g)(6);

(14) all documentation required pursuant to the Compliance and Verification requirements of Section 10327(c)(5)(B);

(15) if seeking a reduction in the operating expenses used in the Committee's final underwriting pursuant to Section 10327(g)(1) of these regulations, the final operating expenses used by the lender and equity investor;

(16) a certification from the project architect or, in the case of rehabilitation projects, from an architect retained for the purpose of this certification, that the physical buildings are in compliance with all ~~applicable building codes and~~ applicable fair housing laws~~. In the case of rehabilitation projects proceeding without an architect, the entity performing the Capital Needs Assessment shall note necessary fair housing improvements, and the applicant shall budget for and implement the related construction work~~;

(17) all documentation required pursuant to the Compliance and Verification requirements of Section 10325(c)(6), if applicable;

(18) evidence that the project is in compliance with any points received under Section 10325(c)(9);

(~~18~~19) a current utility allowance estimate as required by 26 CFR Section 1.42-10(c) and Section 10322(h)(21) of these regulations. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS rater, in accordance with current HERS regulations; and

(~~19~~20) for tribal trust land, the lease agreement between the Tribe and the project owner.

(~~20~~21) Evidence that the subject property is within the control of the ~~applicant~~ project owner in the form of an executed lease agreement, a current title report (within 90 days of application) showing the ~~applicant~~ project owner holds fee title, a grant deed, or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status.

(22) Evidence that the project is in compliance with the provisions of the CDLAC resolution, if applicable;

The Executive Director may waive any of the above submission requirements if not applicable to the ~~proposed~~ project.

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**Section 10325(c)**

**Final Proposed Change:**

(c) Credit Ceiling application competitions. Applications received in a reservation cycle, and competing for Federal and/or State Tax Credits, shall be scored and ranked according to the below-described criteria, except as modified by Section 10317(g) of these regulations. The Committee shall reserve the right to determine, on a case by case basis, under the unique circumstances of each funding round, and in consideration of the relative scores and ranking of the proposed projects, that a project's score is too low to warrant a reservation of Tax Credits. All point selection categories shall be met in the application submission through a presentation of conclusive, documented evidence to the Executive Director's satisfaction. Point scores shall be determined solely on the application as submitted, including any additional information submitted in compliance with these regulations. Further, a project's points will be based solely on the current year's scoring criteria and submissions, without respect to any prior year's score for the same projects.

Scattered Site Projects shall be scored proportionately in the site and service amenities category based upon (i) each site's score, and (ii) the percentage of units represented by each site, except that for scattered site projects of less than 20 units, service amenities shall be scored in the aggregate across all sites.

The number of awards received by individuals, entities, affiliates, and related entities is limited to no more than four (4) per competitive round. This limitation is applicable to a project applicant, developer, sponsor, owner, general partner, and to parent companies, principals of entities, and family members. For the purposes of this section, related or non-arm's length relationships are further defined as those having control or joint-control over an entity, having significant influence over an entity, or participating as key management of an entity. Related entity disclosure is required at the time of application. Furthermore, no application submitted by a sponsor may benefit competitively by the withdrawal of another, higher-ranked application submitted by the same sponsor or related parties as described above.

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**Section 10325(c)(1)(C)**

**Final Proposed Change:**

10325(c)(1)(C) Public funds. For purposes of scoring, "public funds" include federal, tribal, state, or local government funds, including the outstanding principal balances of prior existing public debt or subsidized debt that has been or will be assumed in the course of an acquisition/rehabilitation transaction. Outstanding principal balances shall not include any accrued interest on assumed loans even where the original interest has been or is being recast as principal under a new loan agreement. Public funds points shall only be awarded for assumed principal balances only upon documented approval of the loan assumption or other required procedure by the public agency holding the promissory note.

In addition, public funds include funds from a local community foundation, funds already awarded under the Affordable Housing Program of the Federal Home Loan Bank (AHP)**,** waivers resulting in quantifiable cost savings that are not required by federal or state law, or the value of land donated or leased by a public entity or donated as part of an inclusionary housing ordinance which has been in effect for at least one year prior to the application deadline. Private loans that are guaranteed by a public entity (for example, RHS Section 538 guaranteed financing) shall not be scored as public funds under this scoring factor. ~~Current l~~Land and building values, including for land donated or leased by a public entity or donated as part of an inclusionary housing ordinance or other development agreements negotiated between public entities and private developers, must be supported by an independent, third party appraisal~~, conducted within one year of the tax credit application, and otherwise~~ consistent with the guidelines in Section 10322(h)(9). Building values shall be considered only ~~if~~ to the extent that those existing buildings are to be retained for the project, and the appraised value is not to include off-site improvements. All such public fund commitments shall receive 1 point for each 1 percent of the total development cost funded. For Tribal ~~pilot~~ apportionment applications, land purchased with public funds shall not be eligible for public funds points. However, unsuccessful

Tribal pilot program applicants subsequently competing within the rural set-aside competition could have such tribal land-purchase funding counted competitively as public funding if the land value is established in accordance with the requirements of this paragraph.

To receive points under this subsection for loans, those loans must be "soft" loans, having terms (or remaining terms) of at least 15 years, and below market interest rates and interest accruals, and are either fully deferred or require only residual receipts payments for at least the first fifteen years of their terms. Qualified soft loans may have annual fees that reasonably defray compliance monitoring and asset management costs associated with the project. The maximum below-market interest rate allowed for scoring purposes shall be four percent (4%) simple, or the Applicable Federal Rate if compounding. RHS Section 514 or 515 financing shall be considered soft debt for scoring purposes in spite of a debt service requirement. Further, for points to be awarded under this subsection, there shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land. ~~For 2015 competitive tax credit applications with Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) included as funding sources, a project's recommendation by state program staff may be substituted for evidence that the funding has been firmly committed, provided that the applicant receives a VHHP or AHSC award prior to the CTCAC award.~~

Public contributions of off-site costs shall not be counted competitively, unless (1) documented as a waived fee pursuant to a nexus study and relevant State Government Code provisions regulating such fees or (2) the off-sites must be developed by the sponsor as a condition of local approval and those off-sites consist solely of utility connections, and curbs, gutters, and sidewalks immediately bordering the property~~, or 3) the off-site costs total less than or equal to $100,000~~.

On or before December 31, 2017, ~~Private~~ private "tranche B" loans underwritten based upon rent differentials attributable to rent subsidies shall also be considered public funding for purposes of the final tiebreaker. The amount of private loan counted for scoring purposes would be the lesser of the private lender commitment amount, or an amount based upon CTCAC underwriting standards. Standards shall include a 15-year loan term; an interest rate established annually by CTCAC based upon a spread over 10-year Treasury Bill rates; a 1.15 to 1 debt service coverage ratio; and a five percent (5%) vacancy rate. In addition, the rental income differential for subsidized units shall be established by subtracting tax credit rental income at 50 percent (50%) AMI levels (40% AMI for Special Needs/SRO projects or for Special Needs units within a mixed-population project) from the anticipated contract rent income documented by the subsidy source.

On or after January 1, 2018 the capitalized value of rent differentials attributable to public rent or public operating subsidies shall be considered public funds based upon CTCAC underwriting standards. Standards shall include a 15-year loan term; an interest rate established annually by CTCAC based upon a spread over 10-year Treasury Bill rates; a 1.15 to 1 debt service coverage ratio; and a five percent (5%) vacancy rate. In addition, the rental income differential for subsidized units shall be established by subtracting tax credit rental income at ~~50 percent (50%)~~40 percent (40%) AMI levels (~~40%~~30% AMI for Special Needs/SRO projects or for Special Needs units within a mixed-population project) from the anticipated contract rent income documented by the subsidy source. The rent differential for projects with public operating subsidies shall equal the annual subsidy amount in year 1, provided the subsidy will be of a similar amount in succeeding years, or the aggregate subsidy amount of the contract divided by the number of years in the contract if the contract does not specify an annual subsidy amount.

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**Section 10325(c)(2)(A)(i)**

**Final Proposed Change:**

10325(c)(2)(A)(i) For projects in operation for over three years, submit a certification from a third party certified public accountant that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents, rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial statement has been prepared ~~(which must be effective no more than one year prior to the application deadline)~~ and have funded reserves in accordance with the partnership agreement and any applicable loan documents. To obtain points for projects previously owned by the proposed general partner, a similar certification must be submitted with respect to the last full year of ownership by the proposed general partner, along with verification of the number of years that the project was owned by that general partner. To obtain points for projects previously owned, the ending date of ownership or participation must be no more than 10 years from the application deadline. This certification must list the specific projects for which the points are being requested. The certification of the third party certified public accountant may be in the form of an agreed upon procedure report that includes funded reserves as of the report date, which shall be dated within 60 days of the application deadline, unless the general partner or key person has no current projects which are eligible for points in which case the report date shall be after the date from which the general partner or key person separated from the last eligible project. Where there is more than 1 general partner, experience points may not be aggregated; rather, points will be awarded based on the highest points for which 1 general partner is eligible.

3-4 projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects 4 points

5 or more projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects 6 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available as described above or as follows:

3 Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 3 special needs projects 4 points

4 or more Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 4 special needs projects 6 points

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**Section 10325(c)(2)(B)(ii)**

**Final Proposed Change:**

10325(c)(2)(B)(ii) Management companies ~~that do not meet the California Low Income Housing Tax Credit project requirement above~~managing less than two (2) active California Low-Income Housing Tax Credit projects for more than three years, and management companies for projects requesting points under the special needs categories of subparagraph (i) above and managing no active California Low-Income Housing Tax Credit projects for more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects for more than three years and which itself earns a minimum combined total of two (2) points at the time of application.

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**Section 10325(c)(3)(M)**

**Final Proposed Change:**

10325(c)(3)(M) failure to properly notify CTCAC and obtain prior approval of Transfer Events, general ~~or limited~~ partner changes, transfer of a Tax Credit project, or allocation of the Federal or State Credit;

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**Section 10325(c)(3)(V)**

**Final Proposed Change:**

10325(c)(3)(V) Submitting a check which CTCAC, after reasonable efforts to correct, cannot deposit.

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**Section 10325(c)(4)**

**Final Proposed Change:**

10325(c)(4) Housing Needs. (Points will be awarded only in one category listed below except that acquisition and/or rehabilitation Scattered Site Projects ~~shall~~ may, at the applicant's election, be scored either in the aggregate or proportionately based upon (i) each site's score, and (ii) the percentage of units represented by each site.) The category selected hereunder (which shall be the category represented by the highest percentage of units in a proportionally scored project) shall also be the project category for purposes of the tie-breaker described in subsection 10325(c)(10) below.

| | |
|---|---|
| Large Family Projects | 10 points |
| Single Room Occupancy Projects | 10 points |
| Special Needs Projects | 10 points |
| Seniors Projects | 10 points |
| At-Risk Projects | 10 points |

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**Section 10325(c)(5)(A) 1.**

**Final Proposed Change:**

10325(c)(5)(A) 1. Transit Amenities

The project is located where there is a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop within 1/3 mile from the site with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday, and the project's density will exceed 25 units per acre. 7 points

The site is within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 6 points

The site is within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 5 points

The site is located within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. (For Rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided) 4 points

The site is located within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. 3 points

In addition to meeting one of the proximity categories described above, the applicant commits to provide to residents free transit passes or discounted passes priced at no more than half of retail cost. Passes shall be made available to each Rent-Restricted Unit for at least 15 years.

At least one pass per Tax Credit unit 3 points
At least one pass per each 2 Tax Credit units 2 points

"Light rail station" or "commuter rail station" or "ferry terminal" includes a planned rail station or ferry terminal whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.

A private bus or transit system providing service to residents may be substituted for a public system if it (a) meets the relevant headway and distance criteria, and (b) if service is provided free to the residents. Such private systems must receive approval from the CTCAC Executive Director prior to the application deadline. Multiple bus lines may be aggregated for the above points, only if multiple lines from the designated stop travel to an employment center. Such aggregation must be demonstrated to, and receive prior approval from, the CTCAC Executive Director in order to receive competitive points.

**Section 10325(c)(5)(B) 5. and 6.**

**Final Proposed Change:**

10325(c)(5)(B) 5. Licensed child care. Shall be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least ~~30~~25% of units are three bedrooms or larger). 5 points

6. After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. (Only for large family projects or other projects in which at least ~~30~~25% of units are three bedrooms or larger).

| | |
|---|---|
| 10 hours per week, offered weekdays throughout school year | 5 points |
| 6 hours per week, offered weekdays throughout school year | 3 points |
| 4 hours per week, offered weekdays throughout school year | 2 points |

**Section 10325(c)(6)(A)**

**Final Proposed Change:**

10325(c)(6)(A) New Construction and Adaptive Reuse Projects: The applicant commits to develop the project in accordance with the minimum requirements of any one of the following programs:

Leadership in Energy & Environmental Design (LEED); Green Communities; Passive House Institute US (PHIUS); Passive House; Living Building Challenge; National Green Building Council (NGBS) silver or higher rating; or the GreenPoint Rated Program. 5 points

WELL (when not combined with the programs above) 1 point

**Section 10325(c)(6)(B)**

**Final Proposed Change:**

10325(c)(6)(B) New Construction and Adaptive Reuse Projects: Points for energy efficiency shall be awarded according to one of the following:

(i) Energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in the ~~2013~~ 2016 Title 24, Part 6, of the California Building Code (the ~~2013~~ 2016 Standards) for the project as a whole~~,~~ shall be awarded as follows, provided that each building, unless waived by the Executive Director, shall meet at least half of the percentage for which the project receives points:

| | |
|---|---|
| ~~9~~ 7 percent | 3 points |
| ~~15~~ 12 percent | 5 points |

If the local building department has determined that building permit applications submitted on or before December 31, 2016 are complete, then energy efficiency beyond the requirements in the 2013 Title 24, Part 6, of the California Building Code (the 2013 Standards) for the project as a whole shall be awarded as follows, provided that each building, unless waived by the Executive Director, shall meet at least half of the percentage for which the project receives points:

| | |
|---|---|
| 9 percent | 3 points |
| 15 percent | 5 points |

(ii) Energy Efficiency with renewable energy that provides the following percentages of project tenants' energy loads for the project as a whole, provided that each building, unless waived by the Executive Director, shall meet at least half of the percentage for which the project receives points:

| Offset of Tenants' Load | Low-Rise Multifamily | High-Rise Multifamily |
|---|---|---|
| 20 percent | 3 points | 4 points |
| 30 percent | 4 points | 5 points |
| 40 percent | 5 points | |

The percentage Zero Net Energy (ZNE) solar offset of a project's tenant energy loads is to be calculated using the California Utility Allowance Calculator (CUAC) with kilowatt hours (kWh) consumed to be balanced by kilowatts generated on-site. Gas use is to be converted to kWh for percentage ZNE offset calculations, assuming 1 Therm = 29.3 kWh, and 100,100 British Thermal Units (BTUs) = 29.3 kWh. Residential energy loads modeled by the CUAC shall include all energy used by tenants, both gas and electric, regardless of whether the energy load is billed to the owner or the tenants. This calculation excludes non-residential energy uses associates with the community building, elevators, parking lot lighting, and similar end uses, but includes domestic hot water and Heating, Ventilation, and Air Conditioning (HVAC) loads, regardless of whether they are central or distributed. For purposes of this paragraph, "High-Rise Multifamily" is defined consistently with the California ~~Building~~ Energy Code.

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**Section 10325(c)(6)(C)**

**Final Proposed Change:**

10325(c)(6)(C) Rehabilitation Projects: The applicant commits to develop the project in accordance with the minimum requirements of any one of the following programs:

Leadership in Energy & Environmental Design (LEED); GreenPoint Rated Existing Home Multifamily Program; Passive House Institute US (PHIUS); Passive House; Living Building Challenge; National Green Building Council (NGBS) silver or higher rating; or 2011 Enterprise Green Communities, to the extent it can be applied to existing multifamily building. 5 points

WELL (when not combined with the programs above) 1 point

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**Section 10325(c)(6)(D)**

**Final Proposed Change:**

10325(c)(6)(D) Rehabilitation Projects: The project will be rehabilitated to improve energy efficiency above the modeled energy consumption of the ~~building(s)~~project as a whole based on existing conditions, provided that each building, unless waived by the Executive Director, shall meet at least half of the percentage for which the project receives points. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date pursuant to a public or regulated utility program or other governmental 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. The project must undergo an energy assessment that meets the CTCAC Existing Multifamily Assessment Protocols. The report documenting the results of the Assessment must be submitted using the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Report Template. Points are awarded based on the building(s) percentage decrease in estimated Time Dependent Valuation (TDV) energy use (or improvement in energy efficiency) post rehabilitation as demonstrated using the appropriate performance module of California Energy Commission (CEC) approved software:

| | |
|---|---|
| Improvement Over Current | |
| 15 percent | 3 points |
| 20 percent | 5 points |

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**Section 10325(c)(6)(E) 1.**

**Final Proposed Change:**

10325(c)(6)(E) 1. Projects shall include either:

a. Photovoltaic (PV) generation that offsets 30% of tenant loads (if the combined available roof area of the project structures, including carports, is insufficient for provision of 30% of annual ~~common area~~ tenant electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area); or

b. PV that offsets either 50 percent (50%) of common area load (if the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual common area electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area); or

c. Solar hot water for all tenants who have individual water meters.

2 points

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**Section 10325(c)(6)(F)**

**Final Proposed Change:**

10325(c)(6)(F) Water efficiency:
Use no irrigation at all, i~~I~~rrigate 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~~or irrigate with reclaimed water, greywater, or rainwater in an amount that annually equals or exceeds 10,000 gallons or 150 gallons per unit, whichever is less
3 points

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**10325(c)(6)(G) 1.**

**Final Proposed Change:**

For preliminary reservation applications, applicants must include a certification from the project architect that the sustainable building methods of Section 10325(c)(6) have been incorporated into the project, if applicable. For applications incorporating the requirements of subsections (A) and (C) Green Communities or WELL option, and for applications incorporating the requirements of subsections (B), (D), and (E) above, applicants must include a completed Sustainable Building Method Workbook.

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**10325(c)(6)(G) 7.**

**Final Proposed Change:**

10325(c)(6)(G) 7. For placed in service applications to receive points under Section 10325(c)(6)(F), the project architect, landscape architect, water system engineer, HERS Rater, GreenPoint Rater, National Green Building Council (NGBS) Green Verifier; or LEED for Homes Green Rater shall certify that the project has been designed and constructed to achieve the standards and that, if applicable, reclaimed water, greywater, or rainwater systems have been installed and are functioning to supply sufficient irrigation to the property ~~(excepting water used for Community Gardens)~~ to meet the standards under normal conditions ~~and that the systems offset at least 10,000 gallons of potable water annually~~.

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**Section 10325(c)(8)**

**Final Proposed Change:**

10325(c)(8) Readiness to Proceed. 15 points will be available to projects that document items (A) through (C) below, and commit to begin construction within 180 days of the Credit Reservation (after preliminary reservation CTCAC will randomly assign a 180 day deadline for half of the projects receiving a Credit Reservation within each round and a 194 day deadline for remaining projects), as evidenced by submission, within that time, of: a completed updated application form along with a detailed explanation of any changes from the initial application, an executed construction contract, a construction lender trade payment breakdown of approved construction costs, recorded deeds of trust for all construction financing (unless a project's location on tribal trust land precludes this), binding commitments for permanent financing, binding commitments for any other financing required to complete project construction, a limited partnership agreement executed by the general partner and the investor providing the equity, payment of all construction lender fees, 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. If no construction lender is involved, evidence must be submitted within 180 days after the Reservation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred. CTCAC shall conduct a financial feasibility and cost reasonableness analysis upon receiving submitted Readiness documentation.

In addition to the above, all applicants receiving any readiness points under this subsection must provide an executed Letter of Intent (LOI) from the project's equity partner within 90 days of the Credit Reservation. The LOI must include those features called for in the CTCAC application. Failure to meet the 90 day due date, or the 180-day or 194-day due date if applicable, shall result in rescission of the Tax Credit Reservation or negative points unless, for 2016 reservations only, the Executive Director determines that the circumstances were unforeseen and entirely outside the of the applicant's control.

Five (5) points shall be awarded for submittals within the application documenting each of the following criteria, up to a maximum of 15 points. The 180-day or 194-day requirements shall not apply to projects that do not obtain the maximum points in this category. Within the preliminary reservation application, the following must be delivered:

(A) enforceable commitment for all construction financing, as evidenced by executed commitment(s) and payment of commitment fee(s);

(B) evidence, as verified by the appropriate officials, ~~of site plan approval and~~ that all ~~local land use~~ environmental review clearances (CEQA, NEPA, and applicable tribal land environmental reviews) necessary to begin construction, except for clearances related to loans with must pay debt service for which the applicant is not seeking public funds points or tiebreaker benefit (except the Tranche B calculation), are either finally approved or unnecessary; and

(C) evidence of all necessary public or tribal land use approvals subject to the discretion of local or tribal elected officials ~~(other than those covered by (B))~~.

For paragraphs (B) and (C) an appeal period may run up to 30 days beyond the application due date. The applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved within that 30-day period to garner local approval readiness points.

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**Section 10325(c)(10)(A)**

**Final Proposed Change:**

10325(c)(10)(A) Leveraged soft resources, as described below, defraying residential costs to total residential project development costs. Except where a third-party funding commitment is explicitly defraying non-residential costs only, leveraged soft resources shall be discounted by the proportion of the project that is non-residential. Leveraged soft resources shall be demonstrated through documentation including but not limited to funding award letters, committed land donations, or documented project-specific local fee waivers.

Leveraged soft resources shall include all of the following:

(i) public funds, as described in Section 10325(c)(1)(C), except that on or after January 1, 2018 1) within the rural set-aside only outstanding principal balances of prior existing public debt or subsidized debt more than five years old that has been or will be assumed or recycled shall be discounted by one-half for purposes of the tiebreaker, unless the project is subject to an existing regulatory agreement that limits average rents to 45% AMI or less and does not receive rental assistance income in excess of those rents, and 2) seller carryback financing and any portion of a loan from a public seller or related party that is less than or equal to sale proceeds due the seller, except for a public land loan to a new construction project, shall be excluded for purposes of the tiebreaker.

(ii) soft loans that meet the criteria described in Section 10325(c)(1)(C) (except that terms shall be of at least 55 years), or grants, from unrelated non-public ~~entities~~ parties that are not covered by subparagraph (i) and that do not represent Financing available through the National Mortgage Settlement Affordable Rental Housing Consumer Relief programs. The ~~entity~~ party providing the soft loans or grants shall not be a partner or proposed partner in the limited partnership (unless the partner has no ownership interest and only the right to complete construction) and shall not receive any benefit from a related party to the project. The application shall include (1) a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that the leveraged soft resource(s) is from an unrelated non-public entity(ies), that the unrelated non-public entity(ies) shall not receive any benefit from a related party to the project, and that the leveraged soft resource(s) is available and not committed to any other project or use; and (2) a narrative from the applicant regarding the nature and source of the leveraged soft resource(s) and the conditions under which it was given. On or after January 1, 2018, seller carryback financing and any portion of a loan from a non-public seller or related party that is less than or equal to sale proceeds due the seller shall be excluded for purposes of the tiebreaker

(iii) the value of donated land and improvements that are not covered by subparagraph (i), that meet the criteria described in Section 10325(c)(1)(C), and that are contributed by an unrelated entity (unless otherwise approved by the Executive Director), so long as the contributed asset has been held by the entity for at least 5 years prior to the application due date. The party providing the donation shall not be a partner or proposed partner in the limited partnership (unless the partner has no ownership interest and only the right to complete construction) and shall not receive any benefit from a related party to the project. In addition, the land shall not have been owned previously by a related party or a partner or proposed partner (unless the partner has no ownership interest and only the right to complete construction).

~~Land donations include land leased for a de minimis annual lease payment. CTCAC may contract with an appraisal reviewer and, if it does so, shall commission an appraisal review for donated land and improvements if a reduction of 15% to the submitted appraisal value would change an award outcome. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop his or her own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer for calculating the tiebreaker only.~~

(iv) For purposes of this section, a related party shall mean a member of the development team or a Related Party, as defined in Section 10302(gg), to a member of the development team.

Permanent funding sources for this tiebreaker shall not include equity commitments related to the Low Income Housing Tax Credits.

Land donations include land leased for a de minimis annual lease payment. CTCAC may contract with an appraisal reviewer and, if it does so, shall commission an appraisal review for donated land and improvements if a reduction of 15% to the submitted appraisal value would change an award outcome. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop his or her own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer for calculating the tiebreaker only.

On or before December 31, 2017, t~~T~~he numerator of projects with public operating- or rental-subsidies may be increased by 25 percent (25%) of the percentage of proposed tax credit assisted units benefitting from the subsidy. Such subsidies must be received from one or more of the following programs: Project Based Section 8; PRAC (Section 202 and 811); USDA Section 521 Rental Assistance; Shelter Plus Care; McKinney Act Supportive Housing Program Grants; Native American Housing Block Grant (IHBG); California Mental Health Services Act operating subsidies; California Department of Health Care Services; and Public Housing Annual Contributions contracts. Applicants seeking scoring consideration for other public sources of operating- or rent-subsidies must receive written Executive Director approval prior to the application due date.

On or after January 1, 2017, the numerator of projects of 50 or more newly constructed Tax Credit units shall be multiplied by a size factor equal to seventy five percent plus the total number of newly constructed Tax Credit units divided by 200 (75% + (total newly constructed units/200)).

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**Section 10325(d)**

**Final Proposed Change:**

10325(d) Application selection for evaluation. Except where CTCAC staff determines a project to be high cost, staff shall score and rank projects as described below. Staff shall identify high cost projects by comparing each scored project’s total eligible basis against its total adjusted threshold basis limits. CTCAC shall calculate total eligible basis consistent with the method described in Section 10325(c)(1)(A). A project would be designated “high cost” if a project’s total eligible basis exceeds its total adjusted threshold basis limits by 30%. Staff shall not recommend such project for credits~~, but shall advise the project's sponsors that they may petition the Committee to award the project credits in spite of its cost. Such petitioners shall be calendared to appear before the Committee prior to the application deadline, if possible, but in no case later than the first meeting after the application deadline. Prior to the Committee meeting, staff shall provide the Committee with available data on the costs of any similar projects developed within the project's community, as well as any other mitigating information provided within the application, along with a recommendation. Petitioners must explain in writing the project's unusual cost features, and explain why awarding credits would be sound public policy in spite of those costs. In addition, petitioning sponsors must be accompanied by a representative from the relevant local public entity who must also endorse awarding the credits and explain the compelling reason why the Committee should award the requested credits. Only if the Committee acts to authorize consideration of the application in the current competition would the project be considered for credits~~. Any project that receives a reservation on or after January 1, 2016, regardless of whether or not it is considered high cost at preliminary reservation, may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limits for the year the project is placed in service (or the original total eligible threshold basis limit if higher) by 40%. A project to which the Committee has awarded credits in spite of its cost may be subject to negative points if the project's ratio of total eligible basis at placed in service to the revised total adjusted threshold basis limits for the year the project is placed in service (or the original total eligible threshold basis limit if higher) exceeds the ratio of total eligible basis to the revised total adjusted threshold basis limits that the Committee approved at application by 10%.

Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

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**Section 10325(d)(2)**

**Final Proposed Change:**

10325(d)(2) Geographic Areas selection. Tax Credits remaining following reservations to all set-asides shall be reserved to projects within the geographic areas, beginning with the geographic area having the smallest apportionment, and proceeding upward according to size in the first funding round and in reverse order in the second funding round. The funding order shall be followed by funding the highest scoring application, if any, in each of the ~~ten~~ eleven regions. After each region has had the opportunity to fund one project, TCAC shall award the second highest scoring project in each region, if any, and continue cycling through the regions, filling each geographic area's apportionment. Projects will be funded in order of their rank so long as the region's last award does not cause the region's aggregate award amount to exceed 125 percent (125%) of the amount originally available for that region in that funding round. Credits allocated in excess of the Geographic Apportionments by the application of the 125% rule described above will be drawn from the second round apportionments during the first round, and from the Supplemental Set Aside during the second round. However, all Credits drawn from the Supplemental Set Aside will be deducted from the Apportionment in the subsequent round.

When the next highest-ranking project does not meet the 125% rule then the Committee shall skip over the next highest-ranking project to fund a project requesting a smaller credit award that does meet the 125% requirement. However, no project may be funded by this skipping process unless it (a) has a point score equal to that of the first project skipped, and (b) has a final tiebreaker score equal to at least 75% of the first skipped project's final tiebreaker score.

To the extent that there is a positive balance remaining in a geographic area after a funding round, such amount will be added to the amount available in that geographic area in the subsequent funding round. Similarly, to the extent that there is a deficit in a geographic area after a funding round, such amount will be subtracted from the funds available for reservation in the next funding round. Any unused credit from the geographic areas in the second funding round will be added back into the Supplemental Set-Aside. Tax credits reserved in all geographic areas shall be counted within the housing type goals.

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**Section 10325(f)(2)(A)**

**Final Proposed Change:**

10325(f)(2)(A) Site control may be evidenced by:
(i) a current title report (within 90 days of application) showing the applicant holds fee title or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status;
(ii) an executed lease agreement or lease option for the length of time the project will be regulated under this program ~~between~~ connecting the applicant and the owner of the subject property;
(iii) an executed disposition and development agreement ~~between~~ connecting the applicant and a public agency; or,
(iv) a valid, current, enforceable contingent purchase and sale agreement or option agreement ~~between~~ connecting the applicant and the owner of the subject property. Evidence must be provided at the time of the application that all extensions and other conditions necessary to keep the agreement current through the application filing deadline have been executed.

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**Section 10325(f)(6)**

**Final Proposed Change:**

10325(f)(6) Sponsor characteristics. Applicants shall provide evidence that proposed project participants, as a Development Team, possess all of the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee may conduct an investigation into an applicant's background that it deems necessary, in its sole discretion, and may determine if any of the evidence provided shall disqualify the applicant from participating in the Credit programs, or if additional Development Team members need be added to appropriately perform all program requirements. The following documentation is required to be submitted at the time of application:

(A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);

(B) ~~for each of the following participants,~~ a copy of a contract to provide property management services ~~related~~ to ~~the proposed project:~~
~~(i) Attorney(s) and or Tax Professional(s)~~

~~(ii) Architect~~
~~(iii) Property Management Agent~~
~~(iv) Consultant~~
~~(v) Market Analyst~~

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**Section 10325(f)(7)(A)**

**Final Proposed Change:**

10325(f)(7)(A) Energy Efficiency. New construction and rehabilitation non-competitive applicants shall consult with the design team, a CABEC certified 2013 or 2016 Certified Energy Analyst, and a LEED Green Rater, National Green Building Council (NGBS) Green Verifier, or GreenPoint Rater (one person may meet all of these qualifications) early in the project design process to evaluate a building energy model analysis and identify and consider energy efficiency or generation measures beyond those required by this subsection. Prior to the meeting, the energy analyst shall complete an initial energy model based on either current Title 24 standards or, if the project is eligible, the California Utility Allowance Calculator using best available information on the project. ~~The~~ All non-competitive applications to CTCAC shall include a copy of the model results, meeting agenda, list of attendees, and major outcomes of the meeting. All rehabilitated buildings, both competitive and non-competitive, shall have improved energy efficiency above the modeled energy consumption of the building(s) based on existing conditions documented using the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Protocols and reported using the CTCAC Existing Multifamily Assessment Report template. Rehabilitated buildings shall document at least a 10% post-rehabilitation improvement over existing conditions energy efficiency achieved for the project as a whole, except that Scattered Site applications shall also document at least a 5% post-rehabilitation improvement over existing conditions energy efficiency achieved for each site. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date pursuant to a public or regulated utility program or other governmental 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. Furthermore, rehabilitation applicants must submit a completed Sustainable Building Method Workbook with their preliminary reservation application unless they are developing a project in accordance with the minimum requirements of Leadership in Energy & Environmental Design (LEED), Passive House Institute US (PHIUS), Passive House, Living Building Challenge, National Green Building Council (NGBS) silver or higher certification, or GreenPoint Rated Program. In addition, all applicants who will receive points from CDLAC pursuant to Sections 5230(k)(7)~~, (9), or (10)~~(6), or (8) (for energy efficiency only)~~, or (9)~~ of the CDLAC regulations must submit a completed Sustainable Building Method Workbook with their preliminary reservation application.

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**Section 10325(f)(7)(E)**

**Final Proposed Change:**

10325(f)(7)(E) Appliances. Except for SRO units, all units shall provide a stove and refrigerator. Refrigerators, dishwashers, clothes washers and 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.

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**Section 10325(f)(7)(K)**

**Final Proposed Change:**

10325(f)(7)(K) All ~~tax credit recipient~~new construction projects shall adhere to the provisions of California Building Code (CBC) Chapter 11(B) regarding accessibility to privately owned housing made available for public use~~. Tax credits shall be viewed as invoking those requirements as applicable, including~~ in all respects except as follows: 11B-233.3.1.1 is amended to require a minimum of ten percent (10%) of the units with mobility features, and ~~and~~11B 233.3.1.3 is amended to require four percent (4%) with communications features. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26.

Rehabilitation projects shall provide a minimum of ten percent (10%) of the units with mobility features, as defined in CBC 11B-809.2 through 11B-809.4, and four percent (4%) with communications features, as defined in CBC 11B-809.5. To the maximum extent feasible and subject to reasonable health and safety requirements, these units shall be distributed throughout the project consistent with 24 CFR Section 8.26. At least one of each common area facility type and amenity, as well as paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard. In all other respects, applicable building code will apply.

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**Section 10325(f)(7)**

**Final Proposed Change:**

10325(f)(7) Except ~~of~~ for paragraph (J) and (K), if a rehabilitation applicant does not propose to meet the requirements of this subsection, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. The Executive Director may approve a waiver to paragraph (J) for a new construction or rehabilitation project, provided that tenants will have equivalent access to management services. The Executive Director may approve a waiver to paragraph (K) for a rehabilitation project, provided that the applicant and architect demonstrate that full compliance would be impractical or ~~excessively expensive~~create an undue financial burden. All waivers must be approved in advance by the Executive Director.

Compliance and Verification: For placed-in-service applications, applicants with rehabilitation projects, with the exception of applicants developing a project in accordance with the minimum requirements of LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Council (NGBS) silver or higher certification, or GreenPoint Rated Program who will not receive points pursuant to Section 5230(k)~~(9)~~(8) (for energy efficiency only) of the CDLAC regulations, or applicants with new construction projects that will receive points from CDLAC pursuant to Section 5230(k)(7~~6~~) ~~or (8)~~ of the CDLAC regulations must submit ~~either (a) the appropriate California Energy Commission (CEC) compliance form for the project which shows~~

~~the necessary percentage improvement better than the appropriate Standards, or (b) a completed CUAC analysis establishing the total tenant energy load, and documentation of the PV output using CEC's PV Calculator, which shows the necessary percentage of tenant energy load offset from renewable energy. For subsection (A), applicants with rehabilitation projects must submit the energy consumption and analysis report using the appropriate performance module of CEC-approved software, which shows the pre- and post-rehabilitation estimated Time Dependent Valuation (TDV) energy use demonstrating the required improvement, in their placed-in-service package. With the exception of applicants developing a project in accordance with the minimum requirements of LEED or GreenPoint Rated Program who will not receive points pursuant to Section 5230(k)(9) or (10) of the CDLAC regulations, applicants must submit~~ a completed Sustainable Building Method Workbook for subsection (A). For subsections (B) through (~~K~~I) applicants shall submit LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Council (NGBS) silver or higher, or GreenPoint Rated Program certification or third party certification ~~documentation from one of the following sources~~ confirming ~~the existence of items, measures, and/or project characteristics~~compliance from one of the following: a certified HERS Rater, a certified GreenPoint rater, a US Green Building Council certification, or the project architect. For Subsection (K), the project architect shall provide third party documentation confirming compliance. Failure to produce appropriate and acceptable third party documentation for ~~(A) through (K) of this subsection~~ may result in negative points.

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**Section 10325(g)**

**Final Proposed Change:**

(g) Additional Threshold Requirements. To qualify for Tax Credits as a Housing Type as described in Section 10315(~~g~~h), to receive points as a housing type, or to be considered a "complete" application, the application shall meet the following additional threshold requirements:

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**Section 10325(g)(1)(B)**

**Final Proposed Change:**

10325(g)(1)(B) One-bedroom units must include at least ~~500~~ 450 square feet and two-bedroom units must include at least ~~750~~ 700 square feet of living space. Three-bedroom units shall include at least ~~1,000~~900 square feet of living space and four-bedroom units shall include at least ~~1,200~~1,100 square feet of living space, unless these restrictions conflict with the requirements of another governmental agency to which the project is subject to approval. These limits may be waived for rehabilitation projects~~,~~ at the discretion of the Executive Director prior to the application submission. Bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom;

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**Section 10325(g)(1)(D)**

**Final Proposed Change:**

(D) The project shall provide ~~outdoor~~ play/recreational facilities suitable and available to all tenants, ~~for~~ including children of all ages, except for small developments of 20 units or fewer. ~~The minimum square footage of p~~Play/recreational area for children ages 2-12 years shall be outdoors, and the minimum square footage is 600 square feet and must include an accessible entrance point. For projects with more than 100 total units this square footage shall be increased by 5 square feet for each additional unit. Outdoor play/recreational space must be equipped with reasonable play equipment for the size of the project, and the surface must be natural or synthetic protective material. The outdoor play area of an onsite day care center may qualify as play area for children 2-12 years for purposes of this section if it is available to children when the day care center is not open. The application must demonstrate the availability of ~~outdoor~~ play or recreational facilities suitable for children ages 13-17. Square footage of a community building cannot be included ~~in the minimum square footage~~ for the play/recreational area for children ages 13-17 unless that square footage is accessible to minors at all times between 6 a.m. and 10 p.m. except when the area is reserved for service amenities or special events ~~dedicated as a play/recreational facility for children~~. ~~An onsite day care center or an after school program pursuant to Section 10325(c)(5)(B) is not a recreational facility for purposes of this section.~~

Rehabilitation projects with existing outdoor play/recreational facilities may request a waiver of the minimum square footage requirement if outdoor play/recreational facilities of a reasonable size and type currently exist onsite. The written waiver must be approved prior to the application submission.

The Executive Director, in her/his sole discretion may waive this requirement upon demonstration of nearby, readily accessible, recreational facilities;

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**Section 10325(g)(1)(E)**

**Final Proposed Change:**

10325(g)(1)(E) The project shall provide an appropriately sized common area(s). For purposes of this part, common areas shall include all interior common areas, such as the rental office and meeting rooms, but shall not include laundry rooms or manager living units, and shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1000 square feet; projects from 61 to 100 total units, at least 1400 square feet; projects over 100 total units, at least 1800 square feet. Small developments of 20 units or fewer are exempt from this requirement. At the discretion of the Executive Director, these limits may be waived for rehabilitation projects with existing common area prior to the application submission;

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**Section 10325(g)(1)(G)**

**Final Proposed Change:**

10325(g)(1)(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 10 units. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each unit~~, subject to the further provision that gas connections for dryers shall be provided where gas is otherwise available at the property~~;

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**Section 10325(g)(2)(E)**

**Final Proposed Change:**

10325(g)(2)(E) One-bedroom units must include at least ~~500~~ 450 square feet and two-bedroom units must include at least ~~750~~ 700 square feet of living space. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director, prior to application submission;

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**Section 10325(g)(2)(G)**

**Final Proposed Change:**

10325(g)(2)(G) Common area(s) shall be provided on site, or within approximately one-half mile of the subject property. For purposes of this part, common areas shall be allowed to include all interior common areas, such as the rental office and meeting rooms, but shall not include laundry rooms or manager living units, and shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1,000 square feet; projects from 61 to 100 total units, at least 1,400 square feet; projects over 100 total units, at least 1,800 square feet. Small developments of 20 units or fewer are exempt from this requirement. These limits may be waived, at the discretion of the Executive Director, for rehabilitation projects with existing common area;

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**Section 10325(g)(2)(I)**

**Final Proposed Change:**

10325(g)(2)(I) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the units ~~subject to the further provision that gas connections for dryers shall be provided where gas is otherwise available at the property~~;

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**Section 10325(g)(3)(B)**

**Final Proposed Change:**

10325(g)(3)(B) SRO units are efficiency units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The ~~maximum size for an SRO unit shall be 500 square feet, while the~~ minimum size for ~~new construction~~ SRO units shall be 200 square feet~~. At~~, and at least 90% of the SRO units ~~in the project must meet these requirements~~shall not exceed 500 square feet. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director;

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**Section 10325(g)(4)**

**Final Proposed Change:**

10325(g)(4) Special Needs projects. To be considered Special Needs housing, at least 50% of the Tax Credit units in the project shall serve populations that meet one of the following: are individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental or mental health disabilities; individuals who are survivors of physical abuse; individuals who are homeless as described in Section 10315(b); individuals with chronic illness, including HIV; homeless youth as defined in Government Code Section 11139.3(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; or another specific group determined by the Executive Director to meet the intent of this housing type. The Executive Director shall have sole discretion in determining whether or not an application meets these requirements. In the case of a development that is less than 75% special needs the non-special needs units must meet the large family, senior, or SRO housing type (although the project will be considered as a special needs project for purposes of Section ~~10325~~10315) or consist of at least 20% one-bedroom units and at least 10% larger than one-bedroom units. Studio or SRO units must include at least 200 square feet, one-bedroom units must include at least 500 square feet, and two-bedroom units must include at least 750 square feet of living space. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director. The application shall meet the following additional threshold requirements:

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**Section 10325(i)(11)(A)**

**Final Proposed Change:**

10325(i)(11)(A) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.

(B) If the regulatory agreement for an existing tax credit project applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) contains a requirement to provide service amenities, even if that requirement has expired, the project shall provide a similar or greater level of services for a period of at least 15 years under the new regulatory agreement. A project obtaining maximum TCAC points for services shall be deemed to have met this requirement. If the project has exhibited ~~negative~~ cash flow of less than $20,000 for at least each of the last three years, will have no hard debt and fail to break even in year 15 with services, or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the service expenditures shall be the maximum that project feasibility allows.

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**Section 10326(g)(5)**

**Final Proposed Change:**

10326(g)(5) Sponsor characteristics. Applicants shall provide evidence that as a Development Team, proposed project participants possess the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee shall, in its sole discretion, determine if any of the evidence provided shall disqualify the applicant from participating in the Tax Credit Programs, or if additional Development Team members need be added to appropriately perform all program requirements. General partners and management companies lacking documented experience with Section 42 requirements using the minimum scoring standards at Section 10325(c)(2)(A) and (B) shall be required to complete training as prescribed by CTCAC prior to a project's placing in service. The minimum scoring standards referenced herein shall not be obtained through the two (2) point category of "a housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee to satisfy minimum management company experience requirements for an incoming management agent" established at Section 10325(c)(2). Applicants need not submit the third party public accountant certification that the projects have maintained a positive operating cash flow.
The following documentation is required to be submitted at the time of application:

(A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);

(B) ~~for each of the following participants,~~ a copy of a contract to provide property management services ~~related~~ to the proposed project~~:~~.

~~(i) Attorney(s) and or Tax Professional(s)~~
~~(ii) Architect~~
~~(iii) Property Management Agent~~
~~(iv) Consultant~~
~~(v) Market Analyst~~

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**Section 10326(g)(7)**

**Final Proposed Change:**

10326(g)(7) Minimum Rehabilitation Project Costs. Projects involving rehabilitation of existing buildings shall be required to complete, at a minimum, the higher of:

(A) $15,000 in hard construction costs per unit; or

(B) 20% of the adjusted basis of the building pursuant to IRC Section 42(e)(3)(A)(ii)(I).

In addition, for existing tax credit projects applying for additional tax credits for acquisition and/or rehabilitation (i.e., resyndication), the capital needs assessment shall demonstrate a rehabilitation need of at least ~~$20,000~~$15,000 per unit over the first seven years of the 15-year reserve study. Projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.

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**Section 10326(g)(8)**

**Final Proposed Change:**

10326(g)(8)(A) Existing tax credit projects applying for additional tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.

(B) If the regulatory agreement for an existing tax credit project applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) contains a requirement to provide service amenities, even if that requirement has expired, the project shall provide a similar or greater level of services for a period of at least 15 years under the new regulatory agreement. A project obtaining maximum CDLAC points for services shall be deemed to have met this requirement. If the project has exhibited ~~negative~~ cash flow of less than $20,000 for at least each of the last three years, has no hard debt and fails to break even in year 15 with services, or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the service expenditures shall be the maximum that project feasibility allows.

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**Section 10326(j)(5)**

**Final Proposed Change:**

10326(j)(5) Projects intended for eventual tenant homeownership must submit, at application, evidence of a financially feasible program, incorporating, among other items, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, and a plan for conversion of the facility to home ownership at the end of the initial 15 year compliance period. In such a case, the regulatory agreement will contain provisions for the enforcement of such covenants.

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**Section 10327(a)**

**Final Proposed Change:**

10327(a) General. Applicants shall demonstrate that the proposed project is financially feasible as a qualified low income housing project. Development and operational costs shall be reasonable and within limits established by the Committee, and the Committee may ~~be~~ adjust~~ed by the Committee,~~these costs and any corresponding basis at any time prior to issuance of tax forms. Approved sources of funds shall be sufficient to cover approved uses of funds, except that initial application errors resulting in a shortage of sources of $50,000 or less shall be deemed covered by the contingency line item. If it is determined that sources of funds are insufficient, an application shall be deemed not to have met basic threshold requirements and shall be considered incomplete. Following its initial and subsequent feasibility determinations, the Committee may determine a lesser amount of Tax Credits for which the proposed project is eligible, pursuant to the requirements herein, and may rescind a reservation or allocation of Tax Credits in the event that the maximum amount of Tax Credits achievable is insufficient for financial feasibility.

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**Section 10327(c)(2)**

**Final Proposed Change:**

10327(c)(2) Developer fee. ~~The maximum developer fee that may be included in project costs for a 9% competitive credit application is the lesser of 15% of the project's eligible basis plus 15% of the basis for non-residential costs included in the project and allocated on a pro rata basis, or two million ($2,000,000) dollars. A cost limitation on developer fees that may be included in eligible basis, shall be as follows:~~

(A) The maximum developer fee that may be included in project costs for a 9% competitive credit rehabilitation application is the lesser of 15% of the project's eligible basis plus 15% of the basis for non-residential costs included in the project and allocated on a pro rata basis or two million ($2,000,000) dollars.

The maximum developer fee that may be included in project costs for a 9% competitive credit new construction application shall be calculated as follows: The base fee limit shall be the lesser of 15% of the project's eligible basis plus 15% of the basis for non-residential costs included in the project and allocated on a pro rata basis or two million two hundred thousand ($2,200,000) dollars. To arrive at the maximum developer fee, the base limit shall then be multiplied by the difference between 2 and the project's high-cost test factor, which equals the project's total eligible basis divided by its total adjusted threshold basis limits.

For 9% competitive applications applying under section 10325 of these regulations, the cost limitation on developer fees that may be included in eligible basis, shall be as follows:~~the following limitations shall apply~~:

(i) the maximum developer fee that may be included in eligible basis for a new construction or rehabilitation only project is the lesser of 15% of the project's unadjusted eligible basis~~,~~ or one million four hundred thousand ($1,400,000) dollars; or

(ii) the maximum developer fee that may be included in eligible basis for acquisition/ rehabilitation projects is the lesser of 15% of unadjusted eligible construction related basis plus 5% of the unadjusted eligible acquisition basis~~,~~ or one million four hundred thousand ($1,400,000) dollars; or the maximum developer fee that may be included in eligible basis for projects receiving a waiver of the project size limitations under section 10325(f)(9)(C) of these regulations is the lesser of 15% of the project's eligible basis or $1,680,000 for projects having between 201 and 250 units, $1,750,000 for projects having between 251 and 300 units, and $1,820,000 for projects having more than 300 units.

(B) For 4% credit projects applying under Section 10326 of these regulations, the maximum developer fee that may be included in project costs and eligible basis shall be as follows:

(i) for new construction or rehabilitation only projects, the maximum developer fee that may be included in project costs and eligible basis is 15% of the project's unadjusted eligible basis. All developer fees in excess of two million five hundred thousand ($2,500,000) dollars plus $10,000 per unit for each Tax Credit unit in excess of 100 shall be deferred or contributed as equity to the project.

(ii) the maximum developer fee that may be included in project costs and eligible basis for acquisition/rehabilitation projects is 15% of the unadjusted eligible construction related basis and 5% percent of the unadjusted eligible acquisition basis. All developer fees in excess of two million five hundred thousand ($2,500,000) dollars plus $10,000 per unit for each Tax Credit unit in excess of 100 shall be deferred or contributed as equity to the project. A 15% developer fee on the acquisition portion will be permitted for at-risk developments meeting the requirements of section 10325(g)(5) or for other acquisition/rehabilitation projects whose hard construction costs per unit in rehabilitation expenditures are at least $20,000 or where the development will restrict at least 30% of its units for those with incomes no greater than 50% of area median and restrict rents concomitantly.

(C) For purposes of this subsection, the unadjusted eligible basis is determined without consideration of the developer fee. Once established at the initial funded application, the developer fee cannot be increased, but may be decreased, in the event of a modification in basis, except that the adjustment factor related to costs described in paragraph (A) shall be recalculated at placed in service where applicable. Both the developer fee limitations in total project costs described in paragraphs (2) and (2)(B) above, and the developer fee limitations in basis described in (2)(A) and (2)(B) above apply to projects developed as multiple simultaneous phases using the same credit type (all 9% or all 4% credits) in both phases. Only when a phased project is using both credit types may simultaneously phased projects exceed the limitations in (2), (2)(A), and (2)(B) in the aggregate. For purposes of this limitation, "simultaneous" refers to projects consisting of a single building, or projects on the same or adjacent parcels with construction start dates within six months of each other, or completion dates that are within six months of each other.

(D) Deferred fees and costs. Deferral of project development costs shall not exceed an amount equal to seven-and-one-half percent (7.5%) of the unadjusted eligible basis of the proposed project prior to addition of the developer fee. Unless expressly required by a State or local public funding source, in no case may the applicant propose deferring project development costs in excess of half (50%) of the proposed developer fee. Tax-exempt bond projects shall not be subject to this limitation.

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**Section 10327(c)(5)**

**Final Proposed Change:**

(5) Threshold Basis Limits. The Committee shall limit the unadjusted eligible basis amount, used for calculating the maximum amount of Tax Credits to amounts published on its website in effect at the time of application, and in accordance with the definition in Section 10302(~~nn~~rr) of these regulations. ~~This limitation shall not apply for purposes of calculating the final Credit amount upon issuance of tax forms, including projects that have already received Reservation or allocations of Tax Credits.~~

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**Section 10327(c)(5)(A)**

**Final Proposed Change:**

10327(c)(5)(A) Increases in the ~~T~~threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations. The maximum increase to the ~~unadjusted eligible basis of a development~~ limits permitted under this subsection shall not exceed thirty-nine percent (39%).

A twenty percent (20%) increase to ~~the unadjusted eligible basis~~ limits for a development that is paid for in whole or in part out of public funds and is subject to a legal requirement for the payment of state or federal prevailing wages or financed in part by a labor-affiliated organization that requires the employment of construction workers who are paid at least state or federal prevailing wages. An additional five percent (5%) increase to the unadjusted eligible basis shall be available for projects that certify that they are subject to a project labor agreement within the meaning of Section 2500(b)(1) of the Public Contract Code that requires the employment of construction workers who are paid at least state or federal prevailing wages or that they will use a skilled and trained workforce, as defined in Section 25536.7 of the Health and Safety Code, to perform all onsite work within an apprenticeable occupation in the building and construction trades. All applicants under this paragraph shall certify that contractors and subcontractors will comply with Section 1725.5 of the Labor Code, if applicable;

A seven percent (7%) increase to the ~~unadjusted eligible basis~~ limits for a new construction development where parking is required to be provided beneath the residential units (but not "tuck under" parking) or through construction of an on-site parking structure of two or more levels;

A two percent (2%) increase to the ~~unadjusted eligible basis~~ limits where a day care center is part of the development;

A two percent (2%) increase to the ~~unadjusted eligible basis~~ limits where 100% of the units are for special needs populations;

A ten percent (10%) increase to the ~~unadjusted eligible basis~~ limits for a development wherein at least 95% of the project's upper floor units are serviced by an elevator.

With the exception of the prevailing wage increase, the Local Impact Fee increase, and the special needs increase, in order to receive the basis limit increases by the corresponding percentage(s) listed above, a certification signed by the project architect shall be provided within the initial and placed-in-service application confirming that item(s) listed above will be or have been incorporated into the project design, respectively.

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**Section 10327(c)(5)(B)(1) and (2)**

**Final Proposed Change:**

10327(c)(5)(B)(1) Project shall have onsite renewable generation estimated to produce 50 percent (50%) or more of annual tenant electricity use ~~(dwelling unit and common area meters combined)~~. If the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. A project not availing itself of the 90% roof area exception may also receive an increase under paragraph (2) only if the renewable generation used to calculate each basis increase does not overlap. Five percent (5%)

(2) Project shall have onsite renewable generation estimated to produce 75 percent (75%) or more of annual common area electricity use. If the combined available roof area of the project structures, including carports, is insufficient for provision of 75% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. A project not availing itself of the 90% roof area exception may also receive an increase under paragraph (1) only if the renewable generation used to calculate each basis increase does not overlap. Two percent (2%)

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**Section 10327(c)(5)(B)(3)**

**Final Proposed Change:**

10325(c)(5)(B)(3) Newly constructed project buildings shall be fifteen percent (15%) or more energy efficient than the ~~2013~~ 2016 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24), except that if the local building department has determined that building permit applications submitted on or before December 31, 2016 are complete, then newly constructed project buildings shall be fifteen percent (15%) or more energy efficient than the 2013 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). Four percent (4%)

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**Section 10327(c)(5)(B)(5)**

**Final Proposed Change:**

10327(c)(5)(B)(5) Irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens)~~, provided that the offset of potable water equals or exceeds 20,000 gallons annually~~or irrigate with reclaimed water, greywater, or rainwater in an amount that annually equals or exceeds 20,000 gallons or 300 gallons per unit, whichever is less. One percent (1%)

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**Section 10327(c)(5)(B)**

**Final Proposed Change:**

10327(c)(5)(B) Compliance and Verification: For placed-in-service applications, in order to receive the increase to the basis limit, the application shall contain a certification from ~~the~~ a HERS ~~Rater~~, ~~a~~ GreenPoint ~~Rater~~, National Green Building Council (NGBS) Green Verifier, PHIUS, Passive House, or Living Building Challenge Rater, or from an ~~accredited~~ LEED for Homes Green Rater, verifying that item(s) listed above have been incorporated into the project, except that items (5) through (8) may be verified by the project architect. For item (1), the applicant must submit a Multifamily Affordable Solar Home (MASH) Program field verification certification form signed by the project's solar contractor and a qualified HERS Rater, and a copy of the utility interconnection approval letter. The applicant shall use the California Energy Commission's Photovoltaic Calculator for purposes of determining the solar values to be input into the CUAC calculator. For items (3) and (4), the applicant must submit ~~the energy consumption and analysis report using the appropriate performance module of CEC-approved software, which shows the pre- and post-rehabilitation estimated Time Dependent Valuation (TDV) energy use demonstrating the required improvement, in their placed-in-service application. Applicants must submit~~ a Sustainable Building Method Workbook with the original application and the placed-in-service application. ~~Additionally, for item (6) a management plan must be submitted and must be available to onsite staff.~~ For item (5), the Rater, architect, landscape architect, or water system engineer shall ~~confirm the annual offset of potable water~~ certify that reclaimed water, greywater, or rainwater systems have been installed and are functioning to supply sufficient irrigation to the property to meet the standards under normal conditions. Failure to incorporate the features, or to submit the appropriate documentation may result in a reduction in credits awarded and/or an award of negative points.

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**Section 10327(c)(5)(D)**

**Final Proposed Change:**

10327(c)(5)(D) Projects requiring seismic upgrading of existing structures, and/or projects requiring toxic or other environmental mitigation may be permitted an increase in basis limit equal to the lesser of the amount of costs associated with the seismic upgrading or environmental mitigation or 15% of the project's unadjusted eligible basis to the extent that the project architect or seismic engineer certifies in the application to the costs associated with such work.

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**Section 10327(c)(5)(F)**

**Final Proposed Change:**

10327(c)(5)(F) A ten percent (10%) increase to the ~~unadjusted eligible~~ project's threshold basis limit for a development located in in an area that meets all of the following criteria:

(i) is within a city with a population of at least 50,000 or that, when combined with abutting cities, has a population of at least 50,000.
(ii) is within a county that has a 9% threshold basis limit for 2-bedroom units equal to or less than $300,000.
(iii) is deemed to have the highest opportunity by the UC Davis Regional Opportunity Index for Places (see the dark green shaded areas on the "Place" map at http://interact.regionalchange.ucdavis.edu/roi/webmap/webmap.html).

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**Section 10327(c)(6)**

**Final Proposed Change:**

10327(c)(6) Acquisition costs. All applications must include the cost or value of land and improvements in the Sources and Uses budget, except that projects on tribal trust land need only provide an improvement cost or value. If the acquisition for a new construction project involves a Related Party, the applicant shall disclose the relationship at the time of initial application. All applications seeking competitive points or tiebreaker credit for donations shall include values for land and improvements, if any, that are not nominal. Except as allowed pursuant to Section 10322(h)(9)(A) for rehabilitation projects basing value on assumed debt, the "as if vacant" land value and the existing improvement value established at application for all projects, as well as the eligible basis amount derived from those values, shall not increase during all subsequent reviews including the placed in service review, for the purpose of determining the final award of Tax Credits.

(A) New Construction. The value of land acquired through a third party transaction with an unrelated party shall be evidenced by a sales agreement, purchase contract, or escrow closing statement. The value of land acquired from a Related Party shall be underwritten using the lesser of the current purchase price or appraised value pursuant to Section 10322(h)(9). For competitive projects, the value of donated land, including land donated as part of an inclusionary housing ordinance, must be evidenced by an appraisal pursuant to Section 10322(h)(9). For non-competitive projects, the value of donated land shall be zero.

(B) Rehabilitation. Except as noted below, the applicant shall provide a sales agreement or purchase contract in addition to the appraisal. ~~Applications including acquisition and rehabilitation costs for existing improvements~~ The value of land and improvements shall be underwritten using the lesser amount of the purchase price or the “as is” appraised value of the subject property (as defined in Section 10322(h)(9)) and its existing improvements without consideration of the future use of the property as rent restricted housing except if the property has existing long term rent restrictions that affect the as-is value of the property. The land value shall be based upon an “as if vacant” value as determined by the appraisal methodology described in Section 10322(h)(9) of these regulations. If the purchase price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. The Executive Director may waive this requirement where a local governmental entity is purchasing, or providing funds for the purchase of land for more than its appraised value in a designated revitalization area when the local governmental entity has determined that the higher cost is justified.

For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits and exercising the option to forgo an appraisal pursuant to Section 10322(h)(9)(A), ~~applications including acquisition and rehabilitation costs for existing~~the ~~improvements shall be underwritten using the sales price that is no more than the greater of the amount of debt encumbering the property or the value established by a third-party appraisal consistent with Section 10322(h)(9). If the purchase price is greater than the appraised value, the additional basis shall be prorated between the land and improvements based on the ratio in the appraisal. If the sales price is no more than the amount of debt encumbering the property and the applicant foregoes an appraisal pursuant to Section 10322(h)(9)~~, no sales agreement or purchase contract is required, and TCAC shall approve a reasonable proration of land and improvement ~~basis~~ value consistent with similar projects in the market area.

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**Section 10327(c)(9)**

**Final Proposed Change:**

10327(c)(9) Self-syndication. If the applicant or a Related Party intends to be the sole or primary tax credit investor in a project ~~seeking Federal Credit Ceiling~~, the project shall be underwritten using a tax credit factor (i.e., price) of $1 for each dollar of federal tax credit and $.65 dollars for each dollar of State Tax Credit, unless the applicant proposes a higher value.

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**Section 10327(c)(10)**

**Final Proposed Change:**

10327(c)(10) Basis related to parking. For 9% new construction projects of a type described in Section 65915(p)(2) or (3) of the Government Code, regardless of whether or not the developer makes a request to the city or county, and that received land use entitlements after December 31, 2016, an applicant shall exclude from basis the proportionate cost of parking spaces that exceed the ~~applicable~~ following ratios ~~described in those paragraphs.~~:

(A) 0.3 spaces per unit for special needs projects, except that 1 space per unit shall be allowed for studio and 1-bedroom non-special needs units and 2 spaces per units shall be allowed for larger non-special needs units in a special needs project.
(B) 0.5 spaces per unit for non-large family projects within ½ mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
(C) 1 space per unit for large-family projects within ½ mile of a major transit stop.
(D) 1 space per unit for senior projects more than ½ mile from a major transit stop.

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**Section 10327(d)(1)**

**Final Proposed Change:**

10327(d)(1) High Cost Area adjustment to eligible basis. Proposed projects located in a qualified census tract or difficult development area, as defined in IRC Section 42(d)(5)(c)(iii), may qualify for a thirty percent (30%) increase to eligible basis, subject to Section 42, applicable California statutes and these regulations. Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications relating to sites that have lost their difficult development area or qualified census tract status within the previous 12 months as a difficult development area (DDA).

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**Section 10327(d)(3)**

**Final Proposed Change:**

10327(d)(3) Pursuant to authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications seeking state credits~~, after CTCAC has awarded all state credits available for credit ceiling applications,~~ for which there are insufficient state credits as a difficult development area (DDA).

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**Section 10327(g)**

**Final Proposed Change:**

Underwriting criteria. The following underwriting criteria shall be employed by the Committee in a pro forma analysis of proposed project cash flow to determine the minimum Tax Credits necessary for financial feasibility and the maximum allowable Tax Credits. The committee shall allow initial applicants to correct cash flow shortages or overages of $5000 or less at placed in service:

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**Section 10327(g)(6)**

**Final Proposed Change:**

10327(g)(6) Minimum Debt Service Coverage. An initial debt service coverage ratio equal to at least 1.15 to 1 in at least one of the project's first three years is required, except for FHA/HUD projects, RHS projects or projects financed by the California Housing Finance Agency. Debt service does not include residual receipts debt payments. Except for projects in which less than 50% of the units are Tax Credit Units or where a higher first year ratio is necessary to meet the requirements of subsection 10327(f) (under such an exception the year-15 cash flow shall be no more than the greater of 1) two percent (2%) of the year-15 gross income or 2) the lesser of $500 per unit or $25,000 total), "cash flow after debt service" shall be limited to the higher of twenty-five percent (25%) of the anticipated annual must pay debt service payment or eight percent (8%) of gross income, during each of the first three years of project operation. Pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at placed in service, must demonstrate that this limitation is not exceeded during the first three years of the project's operation. Otherwise, the maximum annual Federal Credit will be reduced at the time of the 8609 package is reviewed, by the amounts necessary to meet the limitations. Gross income includes rental income generated by proposed initial rent levels contained with the project application.

The reduction in maximum annual Federal Credit may not be increased subsequent to any adjustment made under this section.

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**Section 10327(g)(7)**

**Final Proposed Change:**

10327(g)(7) The income from the residential portion of a project shall not be used to support any negative cash flow of a commercial portion. Alternatively, the commercial income shall not support the residential portion~~ without evidence that adequate security will be provided to substitute for commercial income deficits that may arise~~. Applicants must provide an analysis of the anticipated commercial income and expenses.

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**Section 10330(b)**

**Final Proposed Change:**

10330(b) Timing. The appeal must be submitted in writing and received by the Committee no later than seven (7) calendar days following the transmittal date of the Committee staff's point or disqualification letter. The appeal shall identify specifically, based upon previously submitted application materials, the applicant's grounds for the appeal.
Staff will respond in writing to the appeal letter within 7 days after receipt of the appeal letter. If the applicant is not satisfied with the staff response, the applicant may appeal in writing to the Executive Director within seven days after receipt of the staff response letter. The Executive Director will respond in writing no more than seven (7) days after receipt of the appeal. If the applicant is not satisfied with the Executive Director's decision and wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than

seven days following the date of receipt of the Executive Director's letter. An appeal on any given project, when directed to the Executive Director or the Committee, must be accompanied by a one time, five hundred dollar ($500) non-refundable fee payment payable ~~by cashier's check~~ to CTCAC. No appeals will be addressed without this payment. The appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed.

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**Section 10335**

**Final Proposed Change:**

10335. Fees and Performance Deposit

(a) Application fee. Every applicant, including tax-exempt bond project applicants, shall be required to pay an application filing fee of $2,000. This fee shall be paid ~~in a cashier's check payable~~ to the Committee and shall be submitted with the application. This fee is not refundable. Applicants reapplying in the same calendar year for an essentially similar project on the same project site shall be required to pay an additional $1,000 filing fee to be considered in a subsequent funding round, regardless of whether any amendments are made to the re-filed application. At the request of the applicant and upon payment of the applicable fee by the application filing deadline, applications remaining on file will be considered as is, or as amended, as of the date of a reservation cycle deadline. It is the sole responsibility of the applicant to amend its application prior to the reservation cycle deadline to meet all application requirements of these regulations, and to submit a "complete" application in accordance with Section 10322.

(1) Local Reviewing Agency. One-half of the initial application filing fee shall be provided to an official Local Reviewing Agency (LRA) which completes a project evaluation for the Committee. The Local Reviewing Agency may waive its portion of the application filing fee. Such waiver shall be evidenced by written confirmation from the LRA, included with the application. An application that includes such written confirmation from an LRA may remit an application filing fee of $1,000.

(b) Allocation fee. Every applicant who receives a reservation of Tax Credits, except tax-exempt bond project applicants, shall be required to pay an allocation fee equal to four percent (4%) of the dollar amount of the first year's Federal Credit amount reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee paid ~~by cashier's check made payable~~ to the Committee prior to execution of a carryover allocation or issuance of tax forms, whichever comes first. ~~Preliminary reservation recipients receiving any competitive readiness points under Section 10325(c)(8) must pay one-half of the allocation fee within 90 days of the preliminary reservation, and the balance as described above.~~ This fee is not refundable.

(c) Appeal fee. Any applicant submitting an appeal to the Executive Director and/or the Committee with respect to CTCAC's action on a given application will pay a one time fee to CTCAC. This fee, in the amount of five hundred dollars ($500) must be paid ~~by cashier's check payable~~ to CTCAC, and must accompany the original appeal letter.

(d) Reservation fee. Tax-exempt bond project applicants receiving Credit reservations shall be required to pay a reservation fee equal to one percent (1%) of the annual Federal Tax Credit reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee within twenty (20) days of issuance of a tax-exempt bond reservation or prior to the issuance of tax forms, whichever is first.

(e) Performance deposit. Each applicant receiving a preliminary reservation of Federal, or Federal and State, Tax Credits shall submit a performance deposit equal to four percent (4%) of the first year's Federal Credit amount reserved. Notwithstanding the other provisions of this subsection, an applicant requesting Federal Tax Credits not subject to the Federal housing Credit Ceiling and requesting State Tax Credits, shall be required to submit a performance deposit in an amount equal to four percent (4%) of the first year's State Credit amount reserved for the project. Notwithstanding the other provisions of this Section, an applicant requesting only Federal Tax Credits not subject to the Federal Credit Ceiling, shall not be required to submit a performance deposit.

(1) Timing and form of payment. The performance deposit shall be ~~submitted in a cashier's check payable~~paid to the Committee within twenty (20) calendar days of the Committee's notice to the applicant of a preliminary reservation.

(2) Returned Tax Credits. If Tax Credits are returned after a reservation has been accepted, the performance deposit is not refundable, with the following exceptions. Projects unable to proceed due to a natural disaster, a law suit, or similar extraordinary circumstance that prohibits project development may be eligible for a refund. Requests to refund a deposit shall be submitted in writing for Committee consideration. Amounts not refunded are forfeited to the Committee. All forfeited funds shall be deposited in the occupancy compliance monitoring account to be used to help cover the costs of performing the responsibilities described in Section 10337.

(3) Refund or forfeiture. To receive a full refund of the performance deposit, the applicant shall do all of the following: place the project in service under the time limits permitted by law; qualify the project as a low-income housing project as described in Section 42; meet all the conditions under which the reservation of Tax Credits was made; certify to the Committee that the Tax Credits allocated will be claimed; and, execute a regulatory agreement for the project.
If the Committee cancels a Credit because of misrepresentation by the applicant either before or after an allocation is made, the performance deposit is not refundable. If the project is completed, but does not become a qualified low-income housing project, the performance deposit is not refundable.

(4) Appeals. An applicant may appeal the forfeiture of a performance deposit, by submitting in writing, a statement as to why the deposit should be refunded. The appeal shall be received by the Committee not later than seven (7) calendar days after the date of mailing by the Committee of the action from which the appeal is to be taken. The Executive Director shall review the appeal, make a recommendation to the Committee, and submit the appeal to the Committee for a decision.

(f) Compliance monitoring fee. The Committee shall charge a $410 per low-income unit fee to cover the costs associated with compliance monitoring throughout the extended-use period. Generally, payment of the fee shall be made prior to the issuance of Federal and/or State tax forms. Assessment of a lesser fee, and any alternative timing for payment of the fee, may be approved at the sole discretion of the Executive Director and shall only be considered where convincing proof of financial hardship to the owner is provided. Nothing in this subsection shall preclude the Committee from charging an additional fee to cover the costs of any compliance monitoring required, but an additional fee shall not be required prior to the end of the initial 15 year compliance period.

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**Section 10337(f)**

**Final Proposed Change:**

10337(f)(1) CTCAC may establish a schedule of fines for violations of the terms and conditions, the regulatory agreement, other agreements, or program regulations. In developing the schedule of fines, CTCAC shall establish the fines for violations in an amount up to five hundred dollars ($500) per violation or double the amount of the financial gain because of the violation, whichever is greater. Except for serious violations, a first-time property owner violator shall be given at least 30 days to correct the violation before a fine is imposed. A violation that has occurred for some time prior to discovery is one violation, but fines may be a recurring amount if the violation is not corrected within a reasonable period of time thereafter, as determined by the Committee.

(2) CTCAC shall adopt and may revise the schedule of fines by resolution at a public general Committee meeting.

(3) A person or entity subject to a fine may appeal the fine to the Executive Director and, thereafter, to the Committee pursuant to Section 10330(b), except that CTCAC shall not collect a fee for the appeal to the Executive Director.

(4) The Executive Director may approve a payment plan for any fines.

(5) If a fine assessed against a property owner is not paid within six months from the date when the fine was initially assessed and after reasonable notice has been provided to the property owner, the Committee may record a lien against the property.

**PUBLIC COMMENTS RECEIVED DURING PUBLIC HEARINGS AND COMMENT PERIOD**
CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
December 1, 2016

Written public comments were received during the 45-day Public Comment Period, September 15, 2016 through October 31, 2016. Public hearings were held on October 4, 2016 in Oakland, October 5, 2016 in San Diego, October 6, 2016 in Los Angeles, and October 7, 2016 in Sacramento. The comments received at each of the public hearings and the written comments received during the Public Comment Periods are set forth below.

| Item # | Section | Public Comments | Staff Comments/Recommendations |
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| 1 | 10302(ff) | We support this change. (Alice Talcott, MidPen Housing)<br><br>I oppose this proposal because it puts affordable housing developers at a disadvantage when attempting to buy affordable properties. Affordable housing developers understand the tax credit program better than the general market and are more likely to make long term improvements using federal resources. (William Leach, Kingdom Development)<br><br>We believe TCAC should not change this Section at all. It seems the regulation as written is already meeting the intended purpose. (Thomas Erickson, Highridge Costa Housing Partners)<br><br>While we generally support this change, it will be problematic for transfer events that do not involve resyndication. It may be difficult to ask sellers for credits or reductions in purchase price, and the proposal may make projects infeasible due to increased scopes as it could create a larger gap beyond the basis claimed. (Vicky Ramirez, Jamboree Housing Corporation) | Staff disagrees that this change disadvantages affordable buyers in favor of yield buyers. The capital needs requirements apply to all sales regardless of who the buyer is, not just to sales to buyers wishing to resyndicate.<br><br>Staff further disagrees that the change will be problematic for transfer events outside of resyndication. In fact, the change will have almost no net impact on transfer events outside resyndication because the longer short-term work period will be offset by the reduced replacement reserve requirement associated with a shorter long-term work period. The overall impact is roughly a wash.<br><br>Staff further notes that this change is related to the changes in Section 10320(b)(4) allowing resyndication applicants to claim basis on the short term work amount in most cases. To the extent that the Committee wishes to undo the change in this section, staff recommends that it also undo the change allowing that basis in Section 10320(b)(4).<br><br>No change. |
| 2 | 10315<br><br>Homeless Assistance Priority | We support the addition of the two specified housing programs and urge that the list also include the Governor's Homeless Initiative. We also support combining the first and second priorities. We further support reserving units for folks on the specified lists but would add a third list from the county behavioral health department. (Peter Armstrong, Wakeland Development)<br><br>While we support the goal of prioritization of vulnerable homeless persons, projects serving the homeless need the flexibility to serve a broader population than just those coming from the vulnerability or high health care users list. This population tends to prefer scattered site units rather than those at a typical new construction site. TCAC should consider requiring applicants to make available a portion of, rather than all, vacant units to these priority groups. (Stephen Pelz, Housing Authority of the County of Kern)<br><br>I am adamantly opposed to requiring homeless assistance projects to pull tenants from a list of the most vulnerable or most frequent health care | Staff concurs that 1) the Governor's Homeless Initiative should be added to the list of enumerated programs that establish eligibility for the first priority; 2) the requirement to reserve homeless assistance unit for persons referred from specified lists should only apply to projects in the first priority and not to all homeless assistance projects generally; and 3) referrals from the relevant behavioral health department should also be allowed. Staff has proposed amendments accordingly.<br><br>Staff continues to believe that targeting all homeless assistance units is the proper policy but partially concurs that the current language is unclear, narrow, or exclusive. Various commenters interpreted the original proposed language relating to referrals from "the relevant Continuum of Care from a list of most of vulnerable persons" to refer only to chronically homeless individuals and to exclude families. It is not staff's intent necessarily to dictate housing type with this requirement. It is, however, staff's intent to require coordination with local entities |

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| | | users. This would divert 100% of the resources to 20% of the homeless population. This would make it impossible to develop Recovery Housing that requires sobriety and participation in services. There is a large portion of the homeless population that can be housed, trained, and helped to overcome homelessness who are not going to be found on the "most vulnerable list." In effect, this would require all homeless folks to degrade their circumstances and become heavy users of the health care system to receive assistance. It will force the homeless who are capable of recovery to suffer until their situation is beyond repair, before they receive assistance. No subset of the system should receive 100% of our resources. (William Leach, Kingdom Development)<br><br>I oppose the requirement to use the CoC or health department lists. There is nothing more vulnerable than homeless children. This proposal sentences families to continued homelessness. (Jennifer Pankey, Solutions for Change)<br><br>The housing first model is problematic. Solutions for Change has a waiting list of vulnerable families and should not have to use some other list to access tax credits. (Amber Gann, Solutions for Change)<br><br>You are focusing on the housing first model for chronic homelessness. There are other homeless needs. (Steve Falk, Riverside County Continuum of Care)<br><br>I am concerned about the focus on the most vulnerable homeless persons. Homeless families are also in need of housing. (Beth Southorn, LifeSteps)<br><br>If you pass a regulation that requires people to be on a list to get services, only those with access to getting on the list will have access to housing services. Many homeless families are excluded from Continuum of Care lists due to a lack of access to intake workers. This proposal would exclude an entire population of homeless families from getting the most needed housing services. (Tara Turrentine)<br><br>It should also be possible to obtain tax credits to support other needs among the homeless beyond the chronically homeless, including families that might not score the highest in vulnerability indices. (Rachel Iskow, Mutual Housing California)<br><br>I oppose this proposed rule because it will hamstring and limit our city to consider only one type of homeless assistance for chronic and seriously mentally ill homeless persons. The needs of our community are many, but this proposal will jettison our ability to consider them and will result in a drastic and unbalanced approach for our city. (John Masson, Masson & Associates)<br><br>I strongly oppose this proposal which will perpetuate generational poverty by ignoring the homeless with children who don't top the lists for most vulnerable or costliest. By serving families, generational | and their priorities. Staff has confirmed that Continua of Care have flexibility in whom they prioritize and that they may even maintain separate priority lists, such as for families and for chronically homeless persons. As a result, staff proposes to amend this language to refer instead to referrals from "the relevant coordinated entry or access system." Applicants seeking the first priority for homeless assistance projects, unless using another specified list, shall take referrals from the coordinated entry system that are appropriate to the project's unit types (i.e., chronically homeless for supportive housing units, homeless seniors for senior units, and families for large family units). In this way, TCAC homeless assistance projects will support the local homeless response system.<br><br>In addition, staff is concerned that requiring applicants to reserve units for more than 60 days potentially places applicants in danger of violating the IRS vacant unit rules. Staff further believes that the requirement should be enforced by requiring applicants to enter into a memorandum of understanding with the appropriate referral entity prior to placing in service, unless the department or Continuum of Care refuses to enter into a reasonable memorandum. Staff has proposed amendments accordingly.<br><br>Staff notes that nothing in the original proposed language or the revised language requires a housing first model.<br><br>Staff is willing to accept the impacts of a 60-day hold requirement on underwriting in order to better target homeless assistance units.<br><br>With respect to the comment to include other local funding sources in the first priority, staff is sympathetic to the argument but prefers to hold off for this year. In the meantime, most homeless assistance projects have some form of rental or operating subsidy, which means projects they will now be in the first priority anyway.<br><br>Because the language refers already to *vacant* homeless assistance units, it does not preclude projects where the housing is already occupied by formerly homeless households.<br><br>Staff conferred with HCD and is unaware of any provisions of the VHHP program that are incompatible with the proposed regulation change.<br><br>Staff does not understand how the proposed referral requirement might discriminate on the basis of disability. The Continuum of Care system is overseen by HUD, which enforces fair housing laws, and staff is aware of no evidence that these lists disparately impact persons with disabilities. In addition, the specified lists maintained by a county health or behavioral health department are |

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| | | homelessness can be prevented, and that ends up saving lives and much more money in the long run. (Jack Landers)<br><br>Aligning the homeless assistance priority with the new statewide programs will decreased the chances of senior development. We recommend TCAC have a general set-aside for senior housing. (Mary Stompe, PEP Housing)<br><br>The requirement that designated units be held vacant will negatively impact underwriting, as lenders will assume more rental loss at unit turnover. We recommend a maximum 30-day hold and, if that unit is rented to someone not on the list, holding the next available unit for the target population. (Bill Witte and Frank Cardone, Related California)<br><br>While we agree that TCAC policy should align with local efforts to serve vulnerable homeless populations, this requirement is too broad and does not leave room for counties or sponsors to address the crisis. We have concerns about using lists generated by local Continua of Care or health departments as practices and models vary widely from county to county as do the level of staffing, coordination and communication necessary to keep such a list updated and current. (Ray Pearl, California Housing Consortium)<br><br>While we agree that TCAC policy should align with local efforts to serve vulnerable homeless populations, this requirement is too broad and does not leave room for counties or sponsors to address the crisis. We have concerns about using lists generated by local Continua of Care or health departments as practices and models vary widely from county to county as do the level of staffing, coordination and communication necessary to keep such a list updated and current. If adopted, we suggest that, at a minimum, projects with homeless units not reserved solely for households at the top of a list still be eligible but as a second priority within the set-aside. (Amie Fishman, Non-Profit Housing Association of Northern California)<br><br>We support the proposed changes. First, We agree with placing projects with Housing Choice Vouchers on the same footing as projects receiving McKinney-Vento Homeless Assistance Grants or State funding. It provides incentives for local policies setting aside vouchers for populations prioritized under tax credit policies. It is also consistent with HUD efforts to encourage housing authorities to prioritize turn-over vouchers for people experiencing homelessness. We further urge you to include other local funding sources in the first priority or rewrite the first priority entirely. Second, we strongly support the link to coordinated entry systems. It ensures people most needing supportive housing are able to access supportive housing TCAC creates. It further promotes HUD policies to foster the creation of systems coordinating a community's resources to address the needs of homeless people with limited functional ability. We suggest adding behavioral health agencies as acceptable referral agencies. (Sharon Rapport, Corporation for Supportive Housing) | likely to include and/or prioritize only persons with disabilities. Staff expects the list maintainers to comply with privacy laws. |

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| | | We support inclusion of rental or operating assistance funding as a first priority for homeless assistance projects in the nonprofit set-aside. (Kevin Knudtson, Community Economics)<br><br>While we agree with combining the first and second priorities, the added language on referral sources for homeless units is overly prescriptive. We have projects serving homeless veterans who may or may not be on such lists. We recommend allowing support letters from the local housing authority or VA substantiating the intake process. (Ed Holder, Mercy Housing California)<br><br>We support the changes to combine the first and second priorities, but have concerns with the requirement to reserve all homeless assistance units for those on county lists of most vulnerable or highest users of the health care system. We agree that these projects should align with local efforts, but those efforts include an array of different models for serving homeless people, not all of which serve exclusively those that would turn up at the top of these lists. For example, we are concerned this would make it very difficult to do family projects within the set-aside, or even Veterans projects. If this proposal is adopted, we suggest projects not serving the most vulnerable populations still be eligible, but as a second priority. However, we suggest a better alternative is that an applicant must receive a certification from the local county public health or human services department that the project is serving a high priority identified by the local department. Also, we suggest that whatever language is adopted does not preclude projects where the housing is already occupied by formerly homeless households. (Alice Talcott, MidPen Housing)<br><br>Practices and models vary widely from county to county as do the level of staffing, coordination and communication necessary to keep such a list updated and current. While we agree that TCAC policy should align with local efforts to serve vulnerable homeless populations, this requirement is too broad and does not leave room for counties or sponsors to address the crisis. If this proposal is adopted, we suggest that, at a minimum, projects with homeless units not reserved solely for households at the top of a list still be eligible, but as a second priority within the set-aside. (Marianne Lim, Burbank Housing Development Corporation)<br><br>We are concerned about requiring the use of waiting lists given that practices, models, and demand for homeless units may vary greatly from one locality to another. We agree with the intent to ensure that the most vulnerable homeless populations are given access to housing but are concerned with the proposed requirement to house this population without necessarily ensuring an operating subsidy or services funding to support this population over the life of the project. Furthermore, in using these waitlists, it is crucial that adequate coordination and communication occur between the Continuum of Care or County health department and the Owner/Operator, as lengthy referral and screening processes can result in increased turnover and vacancy costs. We recommend using a preference, instead of a requirement, for homeless | |

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| | | assistance projects to lease units to persons who are on the Continuum of Care or County waitlist. This would allow other homeless persons to remain eligible for the housing if it is available. We also recommend excluding projects with VHHP funding from any waitlist requirement, as the VHHP program is incompatible with the proposed regulation change since VHHP has its own definitions and categories of homelessness that may differ from Continuum of Care and County health department lists. (Andy Madeira, Eden Housing)<br><br>We applaud CTCAC's commitment to the prioritization of homeless assistance project resources to the people who need them most. However, we are concerned that the language proposed below may leave some of those people out, and may discriminate on the basis of disability. In order to participate in lists of most vulnerable persons, our understanding is that homeless individuals generally need to answer a number of very detailed questions about their physical and mental health, personal history, and other extremely intimate details of a person's life, and consent for the responses to those questions to be shared within the system. Likewise, participation in a county health department list of frequent health care users will inevitably involve disclosure of some otherwise private information regarding a person's medical history. Particularly at a time in which personal data breaches are common, we have concerns about requiring people with disabilities to disclose such personal medical and disability information as a condition of eligibility for homeless assistance units. Moreover, people with certain psychiatric disabilities or who have experienced past violations of trust by relatives or authority figures may simply not be willing, due to the disability or the past experience, to share such information. Excluding such people from an entire program would violate disability rights laws. Additionally, the proposed language enshrines in regulation two particular methods of prioritization of resources that are known to raise issues of privacy rights and disability discrimination. Homeless assistance providers should not be penalized should they develop and wish to use alternative methods of appropriate prioritization for resources that do not have these problems. (Dara Schur and Autumn Elliot, Disability Rights California) | |
| 3 | 10315<br><br>Second Supplemental Set-Aside | We are very supportive of these changes as an adequate approach to address the over-allocation of state credits. (Vicky Ramirez, Jamboree Housing Corporation)<br><br>We support the changes to prevent TCAC from over-allocating state credits. (Rob Wiener, California Coalition for Rural Housing) | No change. |
| 4 | 10315<br><br>Unsuccessful Set-Aside Applications | | No change. |

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| 5 | 10317(c) | We support this proposal and reiterate that all projects on tribal lands should be designated as DDAs, especially given the proposed new advantages for projects in high opportunity areas. (Marie Allen, Travois)<br><br>We are very supportive of these changes as an adequate approach to address the over-allocation of state credits. (Vicky Ramirez, Jamboree Housing Corporation)<br><br>We recommend "shall consider" or "shall designate" instead of "consider" to remove any inadvertently implied discretion. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We are concerned that more detail is needed for users to be able to clearly understand how the credit will be calculated for projects awarded funds through the second supplemental set aside. The credit calculated for a DDA project will not necessarily be equivalent to a request based on state credits. (Kevin Knudtson, Community Economics)<br><br>We support the changes to prevent TCAC from over-allocating state credits. (Rob Wiener, California Coalition for Rural Housing; Andy Madeira, Eden Housing)<br><br>We support this proposal. We suggest that to implement this, applicants applying for state credits must submit in the application two versions of the Basis and Credits Tab and equity letter – one with state credits and one with the 30% DDA boost. (Alice Talcott, MidPen Housing) | In response to comments provided under Section 10317(d), staff proposes to alter the method by which federal credits will substitute for state credits after all state credits have been reserved. Instead of making the substitution during the sort and prior to reservation, staff now proposes amendments to reserve credits as it has in the past but make the exchange post reservation. The amendments further clarify that the exchange will yield equal equity and adopt the more appropriate "shall designate" suggestion.<br><br>With respect to the specifics of how the credit exchange will be calculated, staff will provide clarity in the revised application.<br><br>Staff does not concur that all projects on tribal lands should be designated as DDAs. In the event that such projects are not already a DDA or QCT, they remain eligible for state credits that provide similar additional equity to DDA/QCT status. |
| 6 | 10317(d) | We support this change. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We oppose this change because it will negatively affect the production of special needs permanent supportive housing that must compete in the geographic set-asides by reducing their tiebreaker scores. (James Silverwood, Affirmed Housing)<br><br>We understand the need to limit state credits, but cannot support this proposal as written. Allowing special needs projects to have DDA status and state credits was intended to encourage development of these projects. Now you may be creating a situation where they inadvertently get skipped because the federal request is too large when state credits may be available to fund the development. We urge withdrawal of this proposal or a modification to allow TCAC to substitute state credits for federal credits if state credits remain available and the substitution would allow the project to be funded when it otherwise would be skipped over because the federal request is too large. (Kasey Burke, Meta Housing Corporation)<br><br>We support the changes to prevent TCAC from over-allocating state credits. (Rob Wiener, California Coalition for Rural Housing; Andy Madeira, Eden Housing) | Staff proposes to alter the method by which federal credits will substitute for state credits after all state credits have been reserved. Instead of making the substitution during the sort and prior to reservation, staff now proposes to reserve credits as it has in the past but make the exchange post reservation. As a result of this revision, there will be no change to the project selection process and therefore no additional skipping of special needs projects.<br><br>As a general rule, neither the original nor the revised proposal would have affected tiebreaker scores for special needs projects as current credit reductions are offset by the add-back provision of the 2015 regulation changes in almost every case. |

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| | | We support this proposal. We suggest that to implement this, applicants applying for state credits must submit in the application two versions of the Basis and Credits Tab and equity letter – one with state credits and one with the 30% DDA boost. (Alice Talcott, MidPen Housing) | |
| **7** | 10317(j) | The reason stated for the proposed change incorrectly indicates that the adjusted basis for the distributions should be reduced by the first year depreciation expense. According to the Internal Revenue Code, the adjusted basis of the building as of the close of the first taxable year of the credit period is not affected by depreciation expense. (Kevin Wilson and Stacey Stewart, Low-Income Housing Tax Credit Working Group) | The proposed language simply cross-references the applicable statutes and therefore requires no change. Staff will work with the commenter to clarify interpretation of the state statute. |
| 8 | 10317(k) | We support this change as it clearly benefits projects that receive state credits by increasing credits' value and, subsequently, increasing investor equity into the project. (Marie Allen, Travois)<br><br>We agree with this change but it should be clarified that that tax credit direct investors will be pre-qualified purchasers of state credits. (Bill Witte and Frank Cardone, Related California)<br><br>We encourage TCAC to confirm the provisions of 10317(k)(2) with a representative sample of tax attorneys involved with LIHTC syndication. In the course of discussing the certificated credit structure, we have heard several attorneys express discomfort with this language. Specifically, allowing the 3521A to be issued to a non-profit GP "at the request of the owner at placed in service" has been read by some to imply that the owner has agency in how and to whom the state LIHTC's are directed. This leads to a concern that the IRS will view this as disguised ownership of the state credit by the partnership, negating the intended tax benefits of the structure. (Richard Mandel, California Housing Partnership Corporation)<br><br>This is a very exciting development in the program, and we support the proposals to implement this. We are wondering if the higher pricing of state credits necessitate other changes in the program. Particularly, with the state credit worth more, we think the formula for calculating state and federal credit equivalency for purpose of setting geographic allocation amounts may need to be adjusted. (Alice Talcott, MidPen Housing) | Staff shares the concern about the possible tax implications of giving applicants the option to direct certificated state credits to either the partnership or the non-profit general partner. Staff proposes to amend the language to require applicants for certificated state credits to be non-profit entities. Staff envisions that the non-profit general partner will receive the certificated credits, sell them, and lend or contribute the proceeds to the partnership.<br><br>Based on informal conversations with the Franchise Tax Board (FTB), staff also proposes to delete the paragraph seeking to clarify the statutory requirement that the buyer be or have been an investor in state or federal tax credits for any other California project. Staff hopes to engage the FTB in further discussions on this matter.<br><br>With respect to pre-qualifying purchasers of certificated state credits, TCAC is not in a legal or practical position to do so, but staff believes that the proposed language provides as much clarity as possible on the matter and that no further changes are necessary. |
| 9 | 10320(b)(2) | | No changes. |
| 10 | 10320(b)(4) | We support this change. (Alice Talcott, MidPen Housing)<br><br>Subparagraph (C) is confusing and in the wrong place. It is not concurrent with a resyndication and could use some clarity as to how the | Staff disagrees that subparagraph (C) is in the wrong place. The language does describe a situation and calculation that occurs as part of the resyndication application. The subparagraph refers to projects that are already under a Capital Needs Agreement when they apply for resyndication. Whereas the Capital Needs |

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| | | valuation of a refinance is established and how the increase in acquisition price is determined. (Kasey Burke, Meta Housing Corporation)<br><br>Because the third party lender is often not finalized in advance of a resyndication application, it is impractical to require a CNA commissioned by the lender. An independent analysis should suffice. (Bill Witte and Frank Cardone, Related California) | Agreement may have required higher replacement reserve contributions than TCAC's standard contribution requirements that will apply after resyndication, value is created by this regulatory reduction in the contributions. Staff strongly believes that this additional value should stay with the project rather than inure to the owner's benefit.<br><br>Staff understands that third party lenders are not always finalized at the time of reservation and that requiring a lender-commissioned CNA may therefore be challenging. Staff is reluctant, however, to have applicants commission their own CNAs. Staff proposes to maintain the language as is but work with applicants whose lenders are not finalized at reservation to true up the short term work amount when a lender-commissioned CNA is available.<br><br>No changes. |
| 11 | 10322(e) | I am opposed to the current proposal but am supportive if specific guidance is codified on how much latitude TCAC staff has in correcting simple errors in the application. (William Leach, Kingdom Development)<br><br>We do not support this proposal as it seems unnecessarily punitive for errors that are minor and can easily be corrected. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>We oppose these changes and instead propose to retain and redefine this section to account for de minimis errors that have been used as the sole basis for the outright rejection of certain projects. While we fully support the continuation of a very high standard for applications submittals, we don't believe that any sound public policy goal is furthered by disqualifying applications for top-ranked projects when errors are minor and easily correctable. We recommend that a de mimimis correctable error should be defined as follows: 1) De Minimis Capital Error: an error that results in a sources or uses discrepancy of no more than the lesser of $75,000 or .25% of residential TDC (including land or value of donated land); 2) De Minimis Operating Error: an error that results in an operations or cash flow discrepancy of no more than the lesser of 1.0% of Gross Potential Residential Rent or $10,000; or 3) Reproduction or Assembly Error: maintain the current language and accept proof from applicants, at staff's reasonable discretion, that there was an error that is the digital equivalent of a paper application or reproduction assembly error. If a Capital or Operating error is found that is within these limits, TCAC staff will correct the error by making adjustments deemed by staff to be reasonable or request that the applicant correct the error during the application review process, with adjustments to be approved by TCAC staff. (Amie Fishman, Non-Profit Housing Association of Northern California; Richard Mandel, California Housing Partnership Corporation; Alice Talcott, MidPen Housing; Marianne Lim, Burbank Housing Development Corporation) | The originally proposed change already allows for staff to request clarifying information from third-party sources for point issues in addition to threshold issues.<br><br>Staff concurs that scanning errors are the one type of reproduction error that may still occur in the digital application era. As a result, staff proposes an amendment to allow applicants to correct clear scanning errors in which in which no more than half of the pages in a document are missing.<br><br>Staff concurs that the regulations should allow some tolerance for minor financial errors. Staff proposed an amendment to Section 10327(a) below providing that initial application errors resulting in a shortage of sources of $50,000 or less shall be deemed covered by the contingency line item. Staff further proposes an amendment to Section 10327(g) allowing applicants to correct cash flow errors of less than $5000 at placed in service.<br><br>While staff does not believe that most errors are purposeful or result from a need for more time, staff has no way to know for sure. In the context of a high-stakes competitive process, staff believes it unwise to assume that all errors are inadvertent or to accept a declaration to that effect. Furthermore, staff does not believe that there are such things as non-substantive omissions. If staff did not need the information, we would not require it. |

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| | | We oppose this change as it assumes an application's omissions stem from an applicant's need to delay for time as opposed to genuine human error. Technical or administrative discrepancies should not result in disqualification of an entire project. We recommend replacing the term "omission" with "non-substantive omission." (John Fowler, People's Self-Help Housing)<br><br>We understand TCAC staff's dilemma in resolving questions which come up in competitive applications with very minor errors or omissions. However, we oppose the deletion of the reproduction and assembly error exception, as these applications require exceptional time, effort, and money to produce and it is very inefficient to throw out applications which would otherwise meet all of TCAC's policy and competitive goals due to technical or administrative errors. In addition, we strongly recommend that the existing discretion to receive third party clarifying info for threshold related items be extended to points related items. We also believe there are reasonable criteria which could be agreed upon for a de minimis financial error, as follows: 1) De Minimis Capital Error: an error that results in a "sources and uses" discrepancy of no more than the lesser of $150,000 or 5% of residential TDC (including land or value of donated land); and/or 2) De Minimis Operating Error: an error that results in an operations or cash flow discrepancy of no more than the lessor of 1.0% of Gross Potential Residential Rent or $15,000. (Kevin Knudtson, Community Economics)<br><br>Assembly errors are still possible in uploaded files (e.g., copier set to one sided scan instead of two) and TCAC should not eliminate the ability to correct such errors. While we support high standards for applications, it is not sound policy to disqualify top-ranked applications for minor and easily correctible mistakes, such as minor mistakes in operating reserves or cash flow. We support the standards in the Community Economics letter. (Ed Holder, Mercy Housing California)<br><br>We oppose this change, as even in the current era of electronic application submissions, reproduction or applicant assembly errors occur due to errors made by the software that was used to create the application. Rather than removing this exception, we recommend that TCAC considers alternatives, such as requiring a declaration under penalty of perjury that documents submitted to correct the error had existed at the time of the filing deadline. (Andy Madeira, Eden Housing) | |
| 12 | 10322(f) | If there is an error in the application that is amended and changed by the committee, there is no reason why the development should be limited to a penalty and not an improvement. The language should allow for increase or decrease in the score and tiebreaker if costs change. (Kasey Burke, Meta Housing Corporation) | Whereas staff currently corrects tiebreakers up or down for other reasons, staff concurs that application changes allowed by Section 10327(a) that affect a tiebreaker score positively or negatively should result in recalculation of the tiebreaker. Staff proposes an amendment accordingly. Whereas staff does not currently correct scores upwards, staff disagrees that such application changes should positively impact scores. In any event, the issue is largely moot because staff only reviews top scoring projects anyway and most changes allowed by Section 10327(a) would not affect scores. |

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| | | | No changes. |
| 13 | 10322(h)(9)<br><br>Appraisals Required | | Staff proposes amendments 1) to conform the language with that of Section 10327(c)(6) by adding new construction projects involving a land sale from a related party to the list of applications requiring an appraisal; and 2) to clarify that only those new construction projects for which appraisals are required are subject to subparagraph (B). |
| 14 | 10322(h)(9)<br><br>Timeliness of Appraisals | We oppose this change. In an era of rapidly appreciating (or falling) land values, this would have the potential effect of conferring a disadvantage (or advantage) on recently purchased properties over some which may have a more dated land basis. The donation confers all of the benefits and burdens of ownership, and appreciation (or devaluation) is one that should be recognized. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>The clarifications on appraisals are very helpful. One issue remains confusing. For new construction projects, is an appraisal dated more than one year previous to the application ever acceptable? We think it makes sense that you can use an appraisal dated more than a year previous for purposes of setting the value of a non-public land donation- i.e. one that was completed at the time that the land was donated. Perhaps clarifying the terms “date of value” and “date of appraisal” would help make this clearer. (Alice Talcott, MidPen Housing) | Staff does not agree that the value of donated land should change after the donation. It is the value of the donation at the time of donation that is most appropriate.<br><br>For new construction projects, the proposed changes generally require the appraisal to value the project around the time of the donation, purchase contract, or sale. If the sale or purchase contract is a few years old, the valuation must be from that earlier time. The language is silent as to when the appraisal is conducted. Staff prefers an appraisal conducted at the time of the earlier donation, sale, or purchase contract but does not want to disqualify projects that did not have an appraisal from that time. Even if the appraisal is more recent, however, the appraisal should establish the value from the earlier time.<br><br>No changes. |
| 15 | 10322(h)(9)<br><br>Underwriting Standards | | No changes. |
| 16 | 10322(h)(10)<br><br>Tenant-Paid Rents | | No changes. |

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| 17 | 10322(h)(10)<br><br>Lifetime Rent Benefit | We support this change. (Alice Talcott, MidPen Housing)<br><br>We support this proposal and encourage TCAC publish the aggregate rent benefits of all projects annually along with the economic multiplier. (Brian D'Andrea, Century Housing Corporation)<br><br>I am supportive of being required to calculate the lifetime rent benefit only if the applicant is required to put it into the excel application. (William Leach, Kingdom Development) | Staff considered calculating the lifetime rent benefit through the application instead of the market study but prefers to keep it in the market study. There is little room to expand the application rent chart, and there is room for error when applicants retype market rents into the application from the market study. Staff acknowledges that the target rents can change after completion of the market study causing another type of error, but staff can recalculate the benefit if necessary.<br><br>Staff proposes an amendment to clarify that projects will not be disqualified if the market study fails to calculate the lifetime rent benefit, provided that the applicant provides the calculation prior to reservation. |
| 18 | 10322(h)(21) | We support the update to incorporate the new solar program. (Alice Talcott, MidPen Housing)<br><br>It would be premature and potentially damaging to the California Public Utilities Commission regulatory proceeding now underway for TCAC to authorize the use of CUAC for projects receiving awards for the Multifamily Affordable Solar Roofs Program (AB 693). Since the CPUC has not yet given any indication as to the likely AB 693 program design, it is too early to know whether the use of the CUAC will be advisable or even permissible under the program. The statutory language clearly emphasizes that benefits from solar credits should be retained by the tenants. (Richard Mandel, California Housing Partnership Corporation)<br><br>We strongly urge TCAC not to reference AB 693 until the CPUC concludes its proceeding detailing the program. The issue of low-income benefits from solar installation and whether utility allowance adjustments are permissible under the program are being taken up in the public proceeding. The CPUC has not indicated how they may decide the issue, but the statutory language clearly emphasizes that the tenants should retain benefits from solar credits. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | Staff withdraws this proposed change. Staff is convinced that citing the Multifamily Affordable Solar Roofs Program is premature until the CEC has fully designed the program. Staff is willing to reconsider revisiting this issue when program design is complete. |
| 19 | 10322(h)(25)(B) | | No changes. |
| 20 | 10322(h)(26)(B)<br><br>Eligible Analysts | I emphatically request that the prohibition on architects performing capital needs assessments be dropped. There is no conflict of interest as there is no direct relationship between a CNA analysis and the architect's fee. (Charlie Pick, Basis Architecture and Consulting)<br><br>Using project architects to evaluate properties is a cost saving technique which usually achieves better results than using third parties. (Michael Hudson, Dominium)<br><br>We argue for allowing the project architect to prepare the CNA. This benefits the project by bringing the architect with the most understanding of the project's physical needs to the analysis. (Rachel Iskow, Mutual Housing California) | Staff is convinced that allowing a project architect who has no identity of interest with the developer to continue performing capital needs assessments is appropriate. Staff proposes amendments accordingly. |

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| | | We oppose this change. A project sponsor should have the ability to perform the CNA as an outside analyst cannot determine what is and isn't needed at the property as well as the owner. Additionally, an architect is more in tune with what is required than an outside analyst. (James Silverwood, Affirmed Housing)<br><br>We believe that a project architect should not be precluded from performing the CNA. The architect will prepare the project's scope of work, and the CNA is essential to developing the overall construction budget. While we understand the potential conflict of interest if the architect's fee is a percentage of construction costs, the CNA will more likely be reflective of actual costs of rehab if prepared by the firm that will also prepare the plans and specifications. (Marie Allen, Travois)<br><br>We oppose. There are times when the architect is more appropriate to prepare the CNA. (Cynthia Parker, BRIDGE Housing)<br><br>We oppose this change, as it removes a cost-effective method of assessing a project's physical condition by using a consultant that specializes in both rehabilitation due diligence and architectural services. (Andy Madeira, Eden Housing)<br><br>We support this change to ensure an independent third party professional completes the CNA. This aligns with current practice as well as industry best practice. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | |
| 21 | 10322(h)(26)(B)<br><br>Pre-rehabilitation reserve study | Since the capital needs assessment already provides all of the information to be included in the pre-rehabilitation study, it is unclear how this additional information would create additional value while it does add another onerous cost. (John Fowler, People's Self-Help Housing)<br><br>We do not clearly see the purpose for a pre-rehabilitation reserve study, as the prepared CNA typically presents the recommended schedule for needed work. The hypothetical pre-rehabilitation study seems unnecessary and could be burdensome and more costly to prepare. (Kevin Knudtson, Community Economics)<br><br>Requiring the CNA reserve study to be pre-rehab would unnecessarily inflate the reserves that are needed for a project, thus making projects less financially feasible. (Michael Hudson, Dominium) | Staff disagrees that a post-rehabilitation reserve study provides the information TCAC needs or would add significant cost. Staff needs a pre-rehabilitation reserve study to assess the need for rehabilitation pursuant to Section 10326(g)(7) and to calculate the short-term work amounts pursuant to Section 10320(b)(4). A post-rehabilitation study does not allow such an assessment. Because the analyst has already assessed the property and knows what needs to be repaired or replaced and when, it should add minimal cost to display that in one additional table.<br><br>Staff disagrees that a pre-rehabilitation reserve study will inflate reserves. The TCAC reserve contribution requirements ($250 and $300 per unit per year) will remain the same. Staff will use the pre-rehabilitation reserve study to assess the needs described above. In order to correct any confusion on this point, staff proposes to remove the reference to this reserve study indicating "the reserve contributions needed to fund those improvements" as TCAC has no need for that particular data. |
| 22 | 10322(h)(26)(B)<br><br>Waivers | | No changes. |

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| 23 | 10322(i) | With respect to submitting the limited partnership agreement, we are concerned that publication of some of the information therein may violate California privacy rights. In particular, guarantee agreements may contain protected data. (David Yarden, AMCAL Multi-Housing) | TCAC has for some time required applicants to submit partnership agreements at placed in service without incident or complaint. The proposed change simply codifies this practice. Moreover, TCAC follows state laws on privacy when responding to Public Records Act requests.<br><br>No changes. |
| 24 | 10325(c) | | No changes. |
| 25 | 10325(c)(1)(C)<br><br>Land donation appraisals | | No changes. |
| 26 | 10325(c)(1)(C)<br><br>Retained buildings | | No changes. |
| 27 | 10325(c)(1)(C)<br><br>Native American apportionment | | Staff proposes further technical amendments to 1) clarify that tribal funds are public funds; and 2) delete obsolete language relating to 2015 VHHP and AHSC awards. |
| 28 | 10325(c)(1)(C)<br><br>Rental assistance | We are generally supportive of this change but encourage TCAC to calculate the imputed Tranche B benefit using 30% AMI for special needs units and 35 year amortization for all projects. We believe this is more reflective of actual incomes of special needs tenants and how lenders underwrite deals. We appreciate the one year delay of this proposal. (Brian D'Andrea, Century Housing Corporation)<br><br>I support the proposed tiebreaker changes given the program's current structure. Nonetheless, I recommend the following improvements: 1) implementing this change immediately as it doesn't affect land acquisition choices; 2) changing the imputed AMI from 50% and 40% to 35% across the board, which will simplify the calculation and make it closer to what happens in reality (vouchers being used on the lowest AMI<br>units); and 3) including operating subsidies and not just rental subsidies as both produce the same effect in subsidizing housing (MHSA capitalized operating subsidies haven't been counted historically). (William Leach, Kingdom Development)<br><br>We opposed the reduction in tiebreaker benefit for rental assistance. The current treatment of rental assistance in the tiebreaker is appropriate because it fairly and equitably reflects the two types of value added by rental subsidies: 1) tranche B leverage; and 2) deep affordability by reducing tenant rents to 30% of actual income. There is no evidence that a disproportionate number of awards are being made or will be made to | Staff is convinced that the two proposed changes to the tiebreaker benefit for rental assistance are likely to devalue rental assistance on average. For simplicity and fairness reasons, staff continues to support one tranche B benefit instead of two separate benefits but proposes to amend the tranche B formula to calculate the rent differential based on the difference between the contract rent and 40% AMI rents (30% AMI rents for special needs/SRO projects), as opposed to 50% AMI rents (40% AMI rents for special needs/SRO projects). This will increase the tiebreaker benefit of rental assistance over the initial proposal. It is difficult to say how this single tranche B calculation compares to the combined double benefit of the current tiebreaker because the latter has such a varied impact across projects. At this time, staff is not supportive of increasing the loan term used in the tranche B calculation beyond 15 years.<br><br>Staff also proposes to restore tiebreaker credit for operating subsidies, as it was not the intent to exclude them. The amendments calculate the value of the operating subsidies by using the same tranche B formula described above except that the annual rent differential shall equal the annual subsidy amount in year 1, provided the subsidy will be of a similar amount in succeeding years, or the aggregate subsidy amount of the contract divided by |

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| | | projects with rental assistance. Projects with rental assistance are inherently better than projects without. Rental subsidies represent more than the soft funds dollar equivalent of public funds, and the point system should continue to reflect this. Private developers, including for-profit and non-profit, receive benefit from rental assistance. (Scott Smith, Housing Authority of San Luis Obispo)<br><br>We oppose this change. In almost all reasonable scenarios, this new method results in lower tiebreakers for homeless/special needs projects that are heavily reliant on subsidy, especially projects with significant public subsidy. Moreover, project based subsidies provide more value than just the 15 year capitalized calculation. Formerly homeless residents pay rents well below 40% AMI, and the contracts are almost certainly renewed. The formula captures neither reality. We also think this could disincentivize developers to take out conventional debt for the rental subsidy because they would be getting tiebreaker credit anyway. (Ben Rosen, Skid Row Housing Trust)<br><br>We are concerned that together, the four proposed tiebreaker changes would have a huge negative impact on the rehabilitation of older projects with no acquisition value including those in the HCD portfolio. While we recognize that TCAC wishes to prioritize scarce 9% credits for the construction of new affordable units, 9% credits are essential for subsidizing the rehabilitation of units that could otherwise be lost. One way for TCAC to potentially address these concerns is through the creation of an additional set-aside for at-risk units which would avoid the necessity for legislation to change the definition of at-risk units. (Ray Pearl, California Housing Consortium)<br><br>We opposed the proposed change. TCAC's comments suggest that the current system allows some applicants to obtain competitive advantage twice for the same subsidy. However, it is quite clear that there is no so-called "double dipping" in the current system. The 25% boost to the tiebreaker score advantages applicants who are able to serve extremely low-income households due to having a commitment of scarce project-based subsidies. For those with operating subsidies, this is the only boost they get, which is appropriate. The additional tranche B benefit for applicants with rent subsidies like Section 8 receive a second benefit but not for the same component of the subsidy. Applicants with rent subsidies are only able to count for tranche B leveraging points the portion of the rent subsidy which is not already needed to subsidize operations. In an effort to avoid the perceived double dip, TCAC's proposal (though likely a drafting error) effectively drastically reduces or eliminates the benefit for applicants with project-based operating subsidies like Section 811, MHSA, VHHP subsidies and San Francisco's LOSP, even though they are providing critical housing opportunities for extremely low-income Californians that the tax credit program is otherwise not providing. We believe the program is best served by retaining the existing regulatory language. A second option would be to drop the 25% boost but to modify the present value formula to recognize the difference between the FMR and the more likely affordability level of | the number of years in the contract if the contract does not specify an annual subsidy amount.<br><br>Staff does not agree that this change should be implemented in 2017. Staff believes that it is appropriate to phase in significant tiebreaker changes. Likewise, staff is reluctant to push off this change because adoption in 2017 would likely delay implementation until 2019.<br><br>Staff reiterates the that rental assistance tiebreaker benefit will be available to all projects with rental assistance, regardless of whether or not they leverage the rental assistance with additional debt. Staff does not believe, however, that developers are likely to forego actual tranche B loans because they will receive tiebreaker credit for rental assistance without leveraging the resource. It is staff's experience that developers seek to leverage all possible sources to close financing gaps and that other public funders, who are almost inevitably involved in competitive projects, are likely to insist on such leverage. |

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| | | 20% AMI for a rent subsidy project and the difference between the TCAC regulatory rent. Since TCAC does not propose to implement this idea in 2017, we believe 2017 would be better spent in a thoughtful discussion about this provision rather than adopting the current proposal now where it will sit until 2018. (Kevin Knudtson, Community Economics; Amie Fishman, Non-Profit Housing Association of Northern California; Dan Wu, Charities Housing; Marianne Lim, Burbank Housing Development Corporation)<br><br>We request no change in the way rental assistance is valued. Rental assistance is a limited resource awarded through a complex, competitive process and is a key component in leveraging other funding sources. It is a critical strategy to providing permanent supportive housing to homeless or near homeless families. It should be valued appropriately. (Karen Flock and Nicholas Birck, Housing Authority of the City of San Buenventura)<br><br>We completely agree that rental assistance is a public subsidy regardless of how it is used, and we applaud calculating the capitalized value of the rental assistance and giving full credit for this amount to all projects, regardless of whether or not the project includes a Tranche B loan. (Sharon Rapport, Corporation for Supportive Housing)<br><br>We generally support TCAC's revised approach in creating a synthetic "tranche b" for all developments with operating subsidy in order to recognize the subsidy contract's contribution of public funds over time. However, the proposed changes do not capture the full present value of certain operating subsidies: it will systematically disadvantage those subsidies that impose budget-based rents or otherwise limit rents to less than FMR's. We recommend the following changes: 1) In the capitalized rent differential calculation, lower the presumed tax credit rents to 20% AMI for special needs or SRO projects / units and 30% AMI for all other units. This standard better reflects the tenant-paid rents in such properties and thus more accurately captures the true subsidy payments over time. (In the majority of cases, actual tenant-paid rents in subsidized units are even lower, but we suggest 20% and 30% AMI as reasonable benchmark.)<br>2) Increase the presumed loan term to 30 years. Developers are regularly able to borrow against subsidy contracts using 30, 35, and even 40-year amortization. This reflects the capital markets' comfort with both renewal and appropriations risk and the unblemished contract renewal record for the various subsidy sources. Given this standard expectation that subsidy contracts will be in place well beyond the 15-year mark, it is appropriate for TCAC to recognize it as well. (Richard Mandel, California Housing Partnership Corporation; Preston Prince, Fresno Housing Authority)<br><br>We support the effort to increase the flexibility of how rental assistance is credited in the tiebreaker score. (John Fowler, People's Self-Help Housing) | |

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| | | We oppose. The goal of these two changes is to keep applicants from counting the same aspect of their project twice. However, there are two distinct components here. Projects should continue to be rewarded for the additional leveraging they do by taking on more debt underwritten by that overhang. This additional debt is a key source of financing, and should not be devalued. A separate concern is for subsidy programs that pay operating expense shortfalls versus paying higher rents (like San Francisco's LOSP). Projects with these programs would continue to be at a disadvantage with the proposed changes because they cannot capitalize the value of rent differentials. The benefit of additional leveraged debt is distinct from the percentage increase to the tiebreaker. This component of the tiebreaker score rewards projects that rent to extremely low-income households through a variety of subsidy programs. If this component of the tie-breaker is changed, projects with subsidy programs that cannot underwrite additional debt with that extra income will be at a disadvantage. For these projects, there is no "double dipping" happening at all, since they only receive this benefit, not the debt-underwriting benefit. (Cynthia Parker, BRIDGE Housing)<br><br>We generally believe this approach is reasonable, the proposal must ensure that the new calculation adequately captures the value of the operating subsidy. In our portfolio with operating subsidies, residents are typically at 20-25% AMI. We recommend TCAC use 25% AMI for special needs units. (Ed Holder, Mercy Housing California)<br><br>Rental subsidy is a key form of public financial support for projects that ensures true affordability for extremely low income households. It is critical then to give full weight to this public subsidy in the tie breaker score for projects that serve extremely low income households, including farmworkers. In order to do that, we would argue that projects with USDA Section 521 rental assistance be allowed to calculate the Tranche B using the 40% AMI rents used by SRO and Special Needs projects. This is based on information about the income levels of farmworker households that live in USDA-supported housing. However, we strongly urge TCAC to pull its proposal to modify credit for rent subsidies for further discussion and study. (Rob Wiener, California Coalition for Rural Housing)<br><br>We think your proposal to allow the Tranche B calculation regardless of whether debt is underwritten is a good one. However, we do not agree that the current system is double-dipping. Rental assistance provides two separate and powerful public benefits – 1) to allow the project to carry additional debt with the incremental income in excess of the regulatory rents, and 2) by allowing tenants to pay only 30% of their income toward rent, it allows us to serve much deeper targeting than the regulatory AMI levels. We think this second benefit can be captured with a small modification to your proposal. The increment should be measured to a lower AMI level than the 50% AMI (40% for special needs) currently allowed. In the MidPen portfolio, the average household income in our Section 8 units is 22% of AMI, with families at 23.5%, seniors at | |

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| | | 19% of AMI and special needs households at 21%. Based on this data, we recommend that the increment be measured down to 25% AMI for family units and 20% AMI for seniors and special needs units. This same formula could be applied to units with operating subsidies (such as Section 811 or a local operating subsidy), with the increment measured as the difference between the regulatory rent and the same assumed AMI levels stated above. (Alice Talcott, MidPen Housing) | |
| 29 | 10325(c)(1)(C)<br><br>Off-site costs | I wholeheartedly support this proposal because it removes a significant amount of arguments while still keeping cities and developers from gaming the system. (William Leach, Kingdom Development)<br><br>We believe that this change is a step in the right direction but that $100,000 is too low. We recommend $500,000 and that the language be clarified that up or equal to this amount shall be counted as public funds. The current language implies that if the off-site costs exceed the threshold, then all off-site costs are excluded instead of just the amount over the threshold. (Geoffrey Brown, USA Properties)<br><br>We support with modification. The $100,000 threshold may be too low for large projects. We would instead suggest exempting offsite contributions up to a percentage of Total Project Costs or Adjusted Threshold Basis and propose two percent as a recommended threshold. A two-percent threshold<br>allows for a reasonable contribution to these legitimate offsite costs ithout being a significant enough amount to encourage the abuse that this provision was originally designed to prevent. (Dave Gatzke and Sylvia Martinez, Community Housing Works) | Staff withdraws this proposal. Staff's intent was to simplify the tiebreaker process and reduce review time in at least in this one respect. On further reflection, in most cases staff will still have to distinguish between eligible and ineligible off-site costs. Moreover, as the comments point out, if would be unfair to apply the rule only to projects with less than $100,000 in off-site costs, which then requires an extra step of subtraction for those projects with off-site costs in excess of $100,000. As a result, staff no longer believes the proposed change is beneficial. |
| 30 | 10325(c)(2)(A)(i) | TCAC should continue to look at 12-month audited statements, not monthly statements. (Pat Sabelhaus, California Council for Affordable Housing) | Staff clarified at the public hearing that the proposal continues to require a 12-month audited financial statement. The proposal is merely meant to clarify the timing. First round applications are due in early March, and an applicant may not yet have an audited financial statement for the preceding calendar year. In this case, TCAC will accept the latest audited financial statement, even if it is from the year prior to the year just ended.<br><br>Staff proposed one additional technical amendment to address situation in which a general partner's/key person's experience is solely comprised of project with which she or he is no longer involved and the person has no other current projects that may be listed. In that case, it makes no sense to require a new certification each year that the projects had positive cash flow on the date when the person's connection with the projects ceased. Staff proposes an exemption from the 60-day requirement such that a general partner or key person who has no current projects which are eligible for points may submit a cash flow certification dated after the date on which the general partner or key person separated from the last eligible project. |

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| 31 | 10325(c)(2)(B)(ii) | Once a project property manager has experience in two LIHTC projects nationwide, they should be able to manage TCAC projects. Requiring managers to manage two TCAC projects gives an unfair advantage to California developers. (Michael Hudson, Dominium) | Given that TCAC requirements differ significantly from those of other states, staff continues to believe that California experience is beneficial. There is no disadvantage to out-of-state developers, who may simply hire a management company with California experience.<br><br>No changes. |
| 32 | 10325(c)(3)(M) | I support this change. (Pat Sabelhaus, California Council for Affordable Housing; Alice Talcott, MidPen Housing) | No changes. |
| 33 | 10325(c)(3)(V) | I am supportive as normal checks saves time without adding significant risk. (William Leach, Kingdom Development)<br><br>We support this change. (Pat Sabelhaus, California Council for Affordable Housing) | No changes. |
| 34 | 10325(c)(4) | We support this change. (Elizabeth Kuwada, Eden Housing)<br><br>We support this change and propose that it be broadened to allow projects with two different housing types that don't meet the scattered site definition because they are on contiguous parcels. This change would make intergenerational projects possible, either as new construction, or as acquisition/rehab of projects initially developed as contiguous separate family and senior projects. Without this change, these types of projects can be combined to meet a project type definition only if they are on non-contiguous parcels. (Alice Talcott, MidPen Housing)<br><br>Eden supports allowing scattered site applicants with differing housing types to choose between scoring the project in the aggregate or by site for housing type points. This proposed regulation would allow sponsors to more flexibly create scattered site projects, thereby providing more opportunity to preserve the existing affordable housing stock. We also recommend that TCAC expand this proposal to allow projects with different housing types that are on contiguous parcels and thus do not meet the scattered site definition. (Andy Madeira, Eden Housing) | Staff prefers not to encourage projects of varying housing types on a single or contiguous parcels, as it creates complications during both application review and compliance monitoring. Mixed-housing type projects that cannot meet the definition of a single housing type in the aggregate may still apply as phased developments, which is often the case anyway.<br><br>No changes. |
| 35 | 10325(c)(5)(A)1. | Eden supports the recognition of more transportation modes in the transit site amenity points, particularly the inclusion of ferry service, which is becoming an increasingly important mode of transportation in the Bay Area. (Andy Madeira, Eden Housing) | No changes. |
| 36 | 10325(c)(5)(B) 5. and 6. | | No changes. |
| 37 | 10325(c)(6)(A) | We request that TCAC recognize the International Code Council's National Green Building Standard (NGBS) as an alternative to the other programs for which applicants can receive sustainability points. NGBS is as rigorous, if not more rigorous, than the other standards and has unassailable credibility. In addition, it was specifically designed for residential projects including affordable housing and is cost-effective to implement, making it ideal for achieving green housing in a cost-conscious manner. Twenty-three other states recognize NGBS in their | After discussion with our sustainability consultant, staff is convinced that NGBS silver or higher certification is deserving of 5 sustainability points and proposes amendments accordingly. Staff believes that this program, like the others for which applicants may receive proposed points, meets the criteria recommended by the last commenter. |

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| | | Qualified Allocation Plans. (Michael Luzier, Home Innovation Research Labs)<br><br>We support adding the International Code Council's National Green Building Standard to the list of programs for which applicants can receive sustainability points. (Bob Raymer, California Building Industry Association)<br><br>We support the addition of these new sustainability certifications to the points scoring and look forward to learning more about them and how they could benefit our projects. (Cynthia Parker, BRIDGE Housing)<br><br>We appreciate TCAC's efforts to expand the options for green building certifications that go beyond the California Building Code and include third party verification. We believe that owners will welcome this flexibility to demonstrate their sustainability efforts. In addition, we recommend that all green building certifications recognized by TCAC meet the following: (1) a minimum energy performance that exceeds the California Energy Code (2) requirement for onsite testing to support performance measures (3) documentation requirements for compliance, and (4) a robust training/testing/certification program for its qualified professionals. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | |
| 38 | 10325(c)(6)(B)<br><br>2016 Codes | This change should be phased in so it only affects deals submitted for the first time in 2018. Many projects have already begun their design review through city planning departments. Moving to the new code imposes huge cost burdens on projects. In addition, the efficiency improvement thresholds to achieve points should be reduced by 50% to account for increased sustainability in the codes. (Kasey Burke, Meta Housing Corporation)<br><br>As the building codes become more stringent, TCAC should look at reducing (or eliminating) the amount over code needed to attain points, as it is getting unduly expensive and difficult to meet those percentages. In addition, projects that have previously submitted an application should be held to the 2013 standards for all of 2017. (Bill Witte and Frank Cardone, Related California)<br><br>California already has the highest energy efficiency standards in the nation embedded in the 2016 standards. Meeting these standards should be sufficient as a threshold, and additional points should not be granted to projects that surpass these requirements. Building above these standards, even if possible, not only imposes increased costs but reaches a point of diminishing returns and fails a cost-benefit analysis. (Ray Pearl, California Housing Consortium)<br><br>While it makes sense to reference the current building code, it is not clear whether the percent reductions from the more rigorous code still make sense. It is becoming increasingly expensive and difficult to find energy efficiency gains. We request that the minimum reduction be lowered to 5%. (Ed Holder, Mercy Housing California) | Staff concurs that projects for which the local building department has determined that building permit applications submitted on or before December 31, 2016 are complete should continue to be held to the 2013 standards and point thresholds. This will avoid costly redesigns.<br><br>Staff further concurs that the efficiency thresholds for points should be revised to reflect the more stringent 2016 code. It was not staff's intent to raise TCAC's bar on sustainability higher than it was for 2016. According to one source, the 2016 energy codes increase efficiency baselines by 28%. As a result, staff proposes to reduce the efficiency thresholds from 15% and 9% over 2013 codes to 12% and 7% over 2016 codes. |

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| | | We are concerned that the % standards for exceeding the building code have not decreased as the code continues to evolve and get more stringent. As the California code moves toward a zero net energy standard, exceeding the code becomes less and less cost effective. With cost containment on everyone's priority list, we encourage TCAC to reduce the % standards. We encourage TCAC to reduce the standard so that it starts at 5%. The changes to the 2016 Building Code are aggressive, especially for certain project types, and so the costs to exceed energy efficiency more than what is required by code will be difficult. (Alice Talcott, MidPen Housing) | |
| 39 | 10325(c)(6)(B)<br><br>Per building requirement | This requirement is burdensome for applicants to monitor and may cause issues with site orientation. We urge TCAC to leave this provision as-is and only require the aggregate achievement for the project. (Tom Collishaw, Self-Help Enterprises; Rob Wiener, California Coalition for Rural Housing)<br><br>This is overly prescriptive. Some projects have highly varied building types, including mixes of new construction with rehab or adaptive reuse or high density buildings surrounded by lower density cottage style buildings. There will be situations where meeting this requirement is very expensive and we don't think it's reasonable to impose this type of requirement without a mechanism for a waiver when the costs outweigh the benefits. (Alice Talcott, MidPen Housing)<br><br>We oppose this proposal. While we appreciate the intent, at times it is most cost effective and energy efficient to add measures unequally across a project site. This is especially true if buildings differ by building type, size, design, and orientation. For example, for solar thermal systems, the viability can range dramatically depending on the roof style, building size and footprint, and building orientation. (Andy Madeira, Eden Housing)<br><br>We recommend that the minimum energy efficiency threshold be achieved by each individual building. The proposal to require each building to meet half of the overall threshold would significantly complicate the submission process and would also have the potential for allowing for inefficient buildings. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | Staff does not agree with the suggestion to require that the energy efficiency threshold be met at each building. This creates too little flexibility. Staff continues to believe that meeting half the threshold at each building is a good general rule but is convinced that some situations may exist that call for additional flexibility. As a result, staff proposes an amendment to allow a waiver to new per building requirement. |
| 40 | 10325(c)(6)(B)<br><br>High-rise definition | We recommend TCAC reference the California Energy Code, Title 24 Part 6, to provide additional clarity on the definition of high-rise. The definition of high-rise varies in different parts of the California Building Code, such as Fire Code versus the Energy Code. (Richard Mandel, California Housing Partnership Corporation; Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | Staff concurs and proposes an amendment accordingly. |

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| 41 | 10325(c)(6)(C) | We request that TCAC recognize the International Code Council's National Green Building Standard (NGBS) as an alternative to the other programs for which applicants can receive sustainability points. NGBS is as rigorous, if not more rigorous, than the other standards and has unassailable credibility. In addition, it was specifically designed for residential projects including affordable housing and is cost-effective to implement, making it ideal for achieving green housing in a cost-conscious manner. Twenty-three other states recognize NGBS in their Qualified Allocation Plans. (Michael Luzier, Home Innovation Research Labs; Steve Easley, Steve Easley and Associates)<br><br>We support adding the International Code Council's National Green Building Standard to the list of programs for which applicants can receive sustainability points. (Bob Raymer, California Building Industry Association)<br><br>We support the addition of these new sustainability certifications to the points scoring and look forward to learning more about them and how they could benefit our projects. (Cynthia Parker, BRIDGE Housing)<br><br>We appreciate TCAC's efforts to expand the options for green building certifications that go beyond the California Building Code and include third party verification. We believe that owners will welcome this flexibility to demonstrate their sustainability efforts. In addition, we recommend that all green building certifications recognized by TCAC meet the following: (1) a minimum energy performance that exceeds the California Energy Code (2) requirement for onsite testing to support performance measures (3) documentation requirements for compliance, and (4) a robust training/testing/certification program for its qualified professionals. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | After discussion with our sustainability consultant, staff is convinced that NGBS silver or higher certification is deserving of 5 sustainability points and proposes amendments accordingly. Staff believes that this program, like the others for which applicants may receive proposed points, meets the criteria recommended by the last commenter. |
| 42 | 10325(c)(6)(D) | We support changing the energy efficiency improvement standard to address the project as a whole and also support the requirement that each individual building meet a minimum of half of the average project-wide improvement. This will simplify complying with this requirement while still achieving important energy efficiency goals.<br><br>This is overly prescriptive. Some projects have highly varied building types, including mixes of new construction with rehab or adaptive reuse or high density buildings surrounded by lower density cottage style buildings. There will be situations where meeting this requirement is very expensive and we don't think it's reasonable to impose this type of requirement without a mechanism for a waiver when the costs outweigh the benefits. (Alice Talcott, MidPen Housing)<br><br>We oppose this proposal. While we appreciate the intent, at times it is most cost effective and energy efficient to add measures unequally across a project site. This is especially true if buildings differ by building type, size, design, and orientation. For example, for solar thermal systems, the viability can range dramatically depending on the roof style, building size and footprint, and building orientation. In addition, this requirement | Staff does not agree with the suggestion to require that the energy efficiency threshold be met at each building. This creates too little flexibility. Staff continues to believe that meeting half the threshold at each building is a good general rule but is convinced that some situations may exist that call for additional flexibility. As a result, staff proposes an amendment to allow a waiver to new per building requirement. |

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| | | for rehabilitation projects may be especially difficult given the existing conditions of the project. (Andy Madeira, Eden Housing)<br><br>We recommend that the minimum energy efficiency threshold be achieved by each individual building. The proposal to require each building to meet half of the overall threshold would significantly complicate the submission process and would also have the potential for allowing for inefficient buildings. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | |
| 43 | 10325(c)(6)(E) 1. | Although we agree that PV generation should be paired with reductions in tenant energy loads, a 30% standard may be too high. We recommend 15%. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>There is an erroneous reference to "common area" electricity use. (Rachel Iskow, Mutual Housing California; Dan Wu, Charities Housing)<br><br>The 30% threshold appears arbitrary and not rooted in cost-benefit analysis. (Ed Holder, Mercy Housing California)<br><br>This level of reduction in tenant loads will be very challenging, given the level of efficiency already required by the 2016 Building Code. We suggest that the % of reduction be reduced so that it can be feasible and cost effective for construction. (Alice Talcott, MidPen Housing)<br><br>We think there should be no roof area exceptions to the 30% and 50% load thresholds. The exception would potentially give the credit to a property providing very little PV generation, such as a high-rise with limited roof area. (Marianne Lim, Burbank Housing Development Corporation)<br><br>Meeting a requirement to reduce tenant loads by 30% makes sense and is consistent with the objectives of the New Solar Home Partnership (NSHP) program and other existing and proposed solar programs. Generally speaking, under the 9% program such installations are financially feasible, and new construction projects are also supported by the NSHP program incentives, which should be available to LIHTC new construction applicants for at least another year or two. To implement this requirement, it is recommended that properties undertake a CUAC analysis that determines the baseline electricity usage without solar PV to establish a quantifiable metric for the 30% reduction requirement. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | Staff appreciates being made award of the erroneous reference to common area loads and proposes and amendment to correctly reference tenant loads.<br><br>According to TCAC's sustainability consultant, a 30% offset of tenant loads is achievable and a lower standard than many projects offsetting tenant loads currently achieve. Staff continues to believe that a 30% threshold is appropriate. As energy codes become more stringent, it actually becomes easier to meet the PV offset threshold in that there is less energy usage to offset.<br><br>Staff disagrees with the comment to eliminate the roof area exception. This exception is well established in other portions of the regulations, and staff is not aware of problems or concerns.<br><br>With respect to the suggestion that properties use a CUAC analysis to determine baseline energy usage, Section 10325(c)(6)(G) 6. (i) already states that the applicant shall use the CEC's photovoltaic calculator for purposes of determining the solar values to input into the CUAC calculator. |
| 44 | 10325(c)(6)(F) | While the offset threshold is reasonable, we encourage TCAC to also provide points for projects that have no or minimal irrigation needs. A zero lot line building with minimal landscaping might potentially better meet the underlying goal of lowering potable water usage than a heavily landscaped low density project that starts from a point of higher usage but offsets more potable water. (Maira Sanchez, Southern California Association of Non-Profit Housing) | Because the originally proposed threshold was based on absolute amount of potable water replaced rather than a percentage of expected potable water usage, staff does not agree that climatic differences are relevant. Nonetheless, staff is convinced that we should give additional consideration to projects that do not use irrigation at all (whether due to a lack of landscaping or drought tolerant landscaping), to projects that use non-potable sources for |

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| | | We are concerned that this requirement is too specific. Projects will have different climates, densities, landscaping, and water conservation requirements. All of these factors impact the size of the system. We urge TCAC to follow policy with solar PV and require a percentage offset (such as 50% of exterior landscape needs) instead of stipulating the system size. (Tom Collishaw, Self-Help Enterprises; Rob Wiener, California Coalition for Rural Housing)<br><br>Tying the offset to a fixed number of gallons will disadvantage smaller projects or projects with less water intensive uses. We suggest a change to a bedroom size metric. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>We propose language that is more proportional to the size and type of the deal such as 100 gallons for each 100 sq. ft. of landscape area. 10,000 gallons is an arbitrary number and does not account for variances in projects size and design. (Kasey Burke, Meta Housing Corporation)<br><br>We suggest some flexibility in the benchmarks for receiving points. We encourage more nuanced scoring requirements based on a building's size and configuration. (Tara Barauskas, Community Corp. of Santa Monica)<br><br>Irrigation water use is largely dependent upon the local climate and the amount of landscaped areas. This means that areas of the State that receive lesser annual rainfall will be able to achieve this goal far easier than other parts of the State assuming projects have the same amount of landscaped areas. While the offset of potable water use of at least 10,000 gallons annually is a very achievable benchmark, we suggest TCAC considering varying the minimum requirement based on local climate. (Dan Wu, Charities Housing)<br><br>The minimum offset may not be appropriate for smaller projects. A 50% decrease is more appropriate. (Karen Flock and Nicholas Birck, Housing Authority of the City of San Buenventura)<br><br>We support with modification. We propose two changes: (i) eliminate the words "only with" to allow for supplemental potable water use for more water-intensive plant establishment phases and to cover intermittent dry season shortages (recognizing that some jurisdictions do not readily allow reclaimed/greywater systems); and, (ii) sizing the numeric requirement based on the building's size (number of units) and landscaped area, recognizing that smaller buildings and buildings with minimal landscaping may be more water efficient, and a different sizing standard may be appropriate. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We support with modification. The 10,000 and 20,000 gallon figures seem arbitrary. While low-density projects with much landscaping to water could probably meet this easily, what about high-density projects that have minimal landscaping? Their reclaimed water, greywater, or | all of their irrigation needs, and to smaller projects. Staff proposes amendments to provide these water efficiency points to projects that use no irrigation at all, that irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens), or that irrigate with reclaimed water, greywater, or rainwater in an amount that annually equals or exceeds 10,000 gallons or 150 gallons per unit, whichever is less. |

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| | | rainwater system may still be providing a good benefit, but not to the tune of 10,000 or 20,000 gallons. A percentage reduction requirement may be a fairer way to structure this, or a lower amount of gallons given the difficulty certain projects will face in meeting these amounts. This could work on an interim basis until more projects have these systems in place and we can collect more information about how much water reduction is feasible. (Cynthia Parker, BRIDGE Housing)<br><br>We suggest that any gallon requirements be scaled for project size, project type, and population served. In addition, we suggest that some kind of baseline or industry standard be used for the gallon offset. (Alice Talcott, MidPen Housing)<br><br>We oppose. This change disadvantages projects that do not require at least 10,000 gallon of irrigation, such as smaller projects, urban infill projects with small landscaped areas, and projects with largely drought-tolerant landscaping. This change incentivizes building reclaimed water irrigation systems that are larger than is necessary, which unnecessarily raises costs. Instead, we suggest that any gallon requirement be scaled based on project size, project type, and population served. (Andy Madeira, Eden Housing)<br><br>We recommend setting the minimum threshold of 50% offset of outdoor water demand and an additional threshold on the minimum landscape area to support the intended impact of the credit. We recommend that a minimum of 10% of the site be landscaped and that the system offset a minimum of 10,000 gallons annually for outdoor water use. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition | |
| 45 | 10325(c)(6)(G) 1. | | No changes. |
| 46 | 10325(c)(6)(G) 6.(i) | While we support the intent of attempting to streamline compliance and certification requirements for developers, TCAC should not move forward with changes related to the Multifamily Affordable Solar Roofs Program until the CPUC finishes the program design. (Richard Mandel, California Housing Partnership Corporation)<br><br>Until the certification requirements are set for the MAHSRP, we cannot know whether the requirements will align with other TCAC policies related to renewable energy, or if there are other unforeseen reasons why TCAC would not want to fully accept the MAHSRP verification documentation. We strongly urge TCAC to evaluate this after the certification requirements for the MAHSRP have been established. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | Staff withdraws this proposed change. Staff is convinced that citing the Multifamily Affordable Solar Roofs Program is premature until the CEC has fully designed the program. Staff is willing to reconsider revisiting this issue when program design is complete. |

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| 47 | 10325(c)(6)<br>(G) 7. | We suggest adding the project's landscape architect as a person who is able to certify the offset. (Dan Wu, Charities Housing) | Staff concurs with allowing a landscape architect to verify compliance and proposes amendments accordingly.<br><br>In addition, in conformance with the changes to Section 10325(c)(6) (A) and (C) staff proposes an amendment to allow NGBS Green Verifiers to provide the required certification.<br><br>Staff proposes further amendment to conform to the revised water efficiency thresholds in Section 10325(c)(6)(F). |
| 48 | 10325(c)(8)<br><br>Overlap elimination | | On an emergency basis in light of the current turmoil in the tax credit market, staff proposes an additional change to give the Executive Director flexibility for 2016 reservations only to not rescind an award or impose negative points for failure to meet a 90-day letter of intent or 180- or 194-day closing deadline if the circumstances were entirely unforeseen and outside of the applicant's control. |
| 49 | 10325(c)(8)<br><br>Hard loans | Please add clarification that permanent "tranche B" loans which leverage Project Based Section 8 payment increment above the regulated AMI rents are also exempt. (Andy Madeira, Eden Housing) | Staff concurs. In referencing hard loans for which the applicant is not seeking public funds points or tiebreaker benefit, staff did not intend to nullify the exception for projects that have hard tranche B debt but are receiving tiebreaker credit for rental assistance. Staff proposes an amendment accordingly. |
| 50 | 10325(c)(10)(A)<br><br>Assumed loans | The proposed tiebreaker changes are good given the program's current structure. (William Leach, Kingdom Development)<br><br>I am generally supportive of the tie-breaker changes because the focus should be on new construction. That said, older USDA properties will not be able to compete and have no other financing options. I prefer last year's proposal to limit rehabilitation projects to 20%, provided that a preference is given to properties that have never previously received tax credits. Another alternative is to increase the at-risk set-aside to 10% and open it up to USDA and rural projects. (Paul Patierno, Highland Property Development)<br><br>While we appreciate the focus on new construction, we are concerned about the ability to rehabilitate existing projects, particularly those in rural areas or with old HCD loans that severely limit rents. TCAC needs to consider how it will facilitate the preservation of this housing, perhaps through including HCD and USDA projects in the at-risk set-aside and enlarging the set-aside. (Elizabeth Kuwada, Eden Housing)<br><br>The idea of discounting assumed or recycled loans is a really good idea, but the proposal does not account for bridge loans that are really new loans but look like assumptions at the time of application. (Felix Au Yeung, MidPen Housing)<br><br>Discounting assumed financing will advantage new construction but virtually eliminate the use of 9% credits for existing affordable projects that need significant modernization and are not feasible with 4% credits | Staff concurs that it is primarily the rural set-aside in which projects receiving full tiebreaker credit for assumed loans have a disproportionate advantage. Staff proposes an amendment to apply this provision relating to assumed loans within the rural set-aside only.<br><br>While staff continues to believe that some adjustment should be made in the rural set-aside to correct the disproportionate advantage, staff is also sympathetic to the argument that some rehabilitation projects are not feasible as 4% projects and will physically deteriorate without the ability to compete for 9% credits. In seeking to balance these conflicting desires, staff proposes an amendment to continue providing 100% tiebreaker credit for assumed loans for the most economically challenged projects, namely those with existing regulatory agreements that limit average rents to 45% AMI or less that do not have rental assistance above these rents. The language is intended to include older HCD projects that may have income targets exceeding 45% average AMI but whose rents are restricted by HCD to amounts below 45% average AMI. Staff further concurs that bridge loans less than five years old should not be considered assumed loans for this purpose and proposes an amendment accordingly.<br><br>Staff does not agree that further exceptions should be made for projects involving seismic retrofit, serious rehabilitation, additional units, deepened affordability, additional units, or enlarged community rooms. While those are all good outcomes, staff does |

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| | | because existing projects typically do not attract new subsidy. Closing the opportunity for 9% credits is not in the best interests of tenants of these aging properties. (Stephen Pelz, Housing Authority of the County of Kern)<br><br>I urge you to withdraw this proposal. While we agree with the need to increase new construction, we urge you not do so at the expense of allowing the existing stock to fall into disrepair. The rehabilitation of older HCD and USDA projects is equally important as new construction, and 9% credits are the only way to make such projects feasible. With this proposed rule in combination with the proposed change to rental assistance tiebreaker credit, three of the four USDA projects in 2016 round two, as well as additional projects in round 1, would not have received credits. (Pat Sabelhaus, California Council for Affordable Housing; Michael Boettger, Michaels Organization)<br><br>Many rehabilitation projects provide significant public benefit. There needs to be an exception to this proposed rule for projects involving seismic retrofit, serious rehabilitation, additional units, deepened affordability, and enlarged community rooms. (John Seymour, Jr., National CORE)<br><br>The combination of tiebreaker changes, particularly #50, may eliminate almost all rural renovation projects from receiving 9% credits. I hope the committee recognizes the lack of alternative funding sources available to renovate existing rural projects. As an alternative to these changes, it would be better to create a set-aside for new construction. (Al R. Inouye)<br><br>While we understand and agree with the need to increase new construction, we must equally urge you not to do so at the expense of allowing our existing affordable housing stock to fall into disrepair. We believe that the combined effect of this tiebreaker proposal and the one related to rental assistance will preclude a significant number of older HCD projects in which we have provided USDA rental assistance and some 500 USDA farm labor and elderly/family projects from competing effectively for 9% tax credits. Such drastic regulatory changes will severely undermine our two agency collaborative efforts to maintain and preserve the rural affordable rental housing portfolio financed by USDA over the past 40 years, especially given the fact that rural projects are not eligible for the at-risk set aside. (Stephen Nnodim, United States Department of Agriculture (USDA))<br><br>We oppose this proposed change. Typically, these loans are not simply "assumed" or "recycled." but are refinanced with extended repayment periods and sometimes with other beneficial terms. Public funders that initially provided these loans are, in most cases, under no obligation to provide these loan extensions and other benefits, but do so because they recognize the importance of renovating properties to benefit current and future residents and making a smart investment to preserve existing affordable housing. Our primary concern is that this change will significantly harm existing special needs and SRO developments where | not believe that such projects should have an advantage over new construction.<br><br>With respect to projects outside of rural areas, staff intends to seek legislation to expand the definition of "at-risk" projects eligible for that set-aside to include older HCD and USDA projects. Staff does not believe it has the authority to expand the definition absent a statutory change. |

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| | | higher levels of wear and tear, and lack of important quality of life amenities like air conditioning, have created greater capital needs for renovation. These developments may need competitive credits, and this rule will significantly decrease, and in many cases eliminate, their chances of obtaining those funds. (Maira Sanchez, Southern California Association of Non-Profit Housing; Ken Cole, California Association of Housing Authorities; Ben Rosen, Skid Row Housing Trust)<br><br>We oppose this proposal because it adversely affects projects with severe rehabilitation needs that have deep income targeting and little land value. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>We oppose this change because this public investment is typically refinanced on a voluntary basis with new terms intended to preserve affordable housing assets. The ability to count this "residual" public financing is beneficial and will ensure the preservation of affordable housing. (Brian D'Andrea, Century Housing Corporation)<br><br>We strongly oppose this proposal as it will prevent us from addressing an important need in our community: existing properties in urgent need of recapitalization that have no other feasible financing options. Many of these have severe rehabilitation needs, deep income targeting, and little or no acquisition value. (Christine Weichert, Sacramento Housing and Redevelopment Agency)<br><br>We support this proposed change if modified to exempt resyndication developments that are replacing existing housing and producing 50% more affordable units onsite. We don't believe a developer should be penalized for including existing city loans used to produce more affordable housing, especially with the demise of redevelopment agencies. (James Silverwood, Affirmed Housing)<br><br>We support this change but question why any amount of assumed loan should be counted. Alternatively, a less arbitrary calculation would be to compare the length of the loan extension to the remaining term of the original loan and pro-rate the amount of the assumed loan. (Kasey Burke, Meta Housing Corporation)<br><br>We are concerned that together, the four proposed tiebreaker changes would have a huge negative impact on the rehabilitation of older projects with no acquisition value including those in the HCD portfolio. While we recognize that TCAC wishes to prioritize scarce 9% credits for the construction of new affordable units, 9% credits are essential for subsidizing the rehabilitation of units that could otherwise be lost. One way for TCAC to potentially address these concerns is through the creation of an additional set-aside for at-risk units which would avoid the necessity for legislation to change the definition of at-risk units. (Ray Pearl, California Housing Consortium) | |

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| | | We urge you to hold off on adopting this change at least until a new funding source is identified for the rehabilitation of older projects with no acquisition value including those in the HCD portfolio. We offer the following recommendations to preserve the benefit of using 9% credits for substantial rehabs while targeting the bulk of the program to new construction: 1) make an exception for projects that are deeply income-targeted with no acquisition value; 2) establish a higher floor for rehabs eligible for this 100% credit for assumed loans; and 3) distinguish between debt that is less than 5 years old and older debt when discounting the value of recycled loan proceeds. (Amie Fishman, Non-Profit Housing Association of Northern California)<br><br>We strongly oppose this proposal. There is a category of acquisition/rehabilitation properties that are in urgent need of recapitalization and which have few if any feasible financing opportunities other than 9% tax credits. These include properties with severe rehabilitation needs, deep income targeting and little or no acquisition value. Many of these properties are in the HCD inventory. These properties are not feasible with 4% credits, and they are often not eligible or competitive for other funding sources. If TCAC were to invoke the 50% assumed/recycled loan discount, then 9% credits would likely be inaccessible as well. Further, we recommend that TCAC explore the possibility of creating a set-aside for these properties to ensure that a minimum amount of credits is reserved for properties that fit the limited criteria and thus help to maintain the health and viability of this highly vulnerable and deeply affordable housing stock. (Richard Mandel, California Housing Partnership Corporation)<br><br>We oppose this change. Very often the debt comes with extended terms, and many local agencies require additional public benefit. In our experience, securing these public reinvestments is as challenging as finding new public money. The competitive 9% program already has a strong disincentive to resyndicating – disallowing acquisition basis on the property – so this provision will primarily burden at-risk non-LIHTC properties that may have no other preservation options. We are concerned that this provision may go too far in preventing access to the program for preservation projects that truly need the 9% resources. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We oppose. We appreciate the interests of TCAC in focusing the 9% credits on new construction projects and agree with this policy priority. However, some rehab projects just won't work as 4%, like those with the deepest income targeting, highest rehabilitation need, and lowest acquisition value and basis. These projects shouldn't be shut out from receiving 9% credits. We think the best way to solve this problem would be to create a rehab set-aside within the 9% credit allocation. This would be a better way to keep most of the 9% credits focused on new construction, but still provide a path for those few rehab projects that just won't work any other way. (Cynthia Parker, BRIDGE Housing) | |

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| | | We support TCAC's overall goal of reducing the relative advantage that existing affordable housing rehab proposals have in the competition and to further encourage rehabilitation projects to migrate to the 4% tax credit program. We continue to be concerned, however, about existing affordable housing properties needing to recapitalize which are not feasible using 4% credits unless there is either substantial appraised value or new public funds. Most such properties have neither. Working together we need to find a path for these properties to move forward before imposing any further restrictions on their access to the 9% credit program. We also think it's important to recognize that these loans are not simply "assumed" or "recycled", but are refinanced with extended repayment periods and sometimes with other beneficial terms. Public funders that initially provided these loans are under no obligation to provide these loan extensions and other benefits, but do so because they recognize the importance of renovating and preserving the properties. At a minimum, we recommend that there be an exception to ensure the feasibility of the more difficult to finance projects. We recommend that projects with original financing requiring extremely low income occupancy (for example, projects with average of 40% AMI restrictions, including projects with old HCD financing), and that have little or no acquisition value, or that have very high rehab needs should be given an exception. In addition, we recommend that public debt that is less than five years old be recognized at its full amount. (Kevin Knudtson, Community Economics)<br><br>We support this proposal. (David Yarden, AMCAL Multi-Housing)<br><br>One-third of our portfolio has deep income targeting restrictions and rehab needs in excess of $50,000 per unit. A 4% resyndication is not an option. Before any changes further diminish access to 9% credits, it is vital that TCAC and others create a viable path forward for these properties. We cannot let existing properties deteriorate. (Ed Holder, Mercy Housing California)<br><br>We support this change only for the rural set-aside where new construction projects have trouble competing against rehabilitation projects that have a competitive advantage. In other set-asides and regions, the change will make acquisition projects unable to compete, and many need access to 9% credits. We also urge you to exempt public loans less than five years old. (Rob Wiener, California Coalition for Rural Housing; Rachel Iskow, Mutual Housing California)<br><br>We support this change, particularly for the rural setaside where we've experienced the difficulty that new construction projects have in competing. Within that setaside in particular, valuing existing public funds at the full amount doesn't just allow acq/rehabs to compete, it gives them a competitive advantage. At the same time, we have concerns that there is a class of projects that have no other options than 9% credits. Because this provision will not be effective until 2018, we encourage TCAC to explore further options to enable these projects to access 9% credits. We support expanding the at-risk setaside to serve these types of | |

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| | | projects. We also think that making those projects better able to access state credits as 4% deals would help, so suggest this change not apply to the 4% with state credit competition. Lastly, we suggest you better define “prior existing public debt that has been assumed.” We suggest that any public funds originally closed within the last five years be excluded from the definition to solve this issue. (Alice Talcott, MidPen Housing)<br><br>We oppose. Some extremely difficult existing projects, including HCD legacy projects an older resyndication projects with high need, may have little access to new public money. In addition, the proposal should count new public monies to the project in the last several years. (Marianne Lim, Burbank Housing Development Corporation)<br><br>We are concerned that this proposal may render the rehabilitation of some existing projects infeasible. While we appreciate TCAC’s priority for new production, we remain concerned about preservation, particularly in rural areas and the HCD legacy portfolio. Many of these projects have deep affordability targeting and face significant capital repair needs that make it impossible for them to pursue 4% credits. Furthermore, these projects are often in localities where no additional soft funding exists to support rehabilitation. TCAC needs to consider how it will facilitate the preservation of this housing with this rule adjustment. If this rule is maintained, perhaps TCAC should enlarge the at-risk set-aside to serve these types of preservation projects and assure that the HCD and USDA legacy portfolios qualify under the preservation definitions. We also support NPH’s suggestion to distinguish projects requiring substantial rehabilitation from those only requiring minor rehabilitation through establishing a higher floor for rehabilitation projects eligible for the 9% credit program. (Andy Madeira, Eden Housing) | |
| 51 | 10325(c)(10)(A)<br><br>Seller carryback loans | The proposed tiebreaker changes are good given the program’s current structure. I support not counting seller carryback notes but encourage you to implement it immediately as it doesn’t affect land acquisition choices. (William Leach, Kingdom Development)<br><br>I am generally supportive of the tie-breaker changes because the focus should be on new construction. (Paul Patierno, Highland Property Development)<br><br>We oppose the proposal. Of the 14 housing authorities who responded to our survey, more than half of the PHA’s utilization of the tax credit program is from just three PHAs: Santa Barbara County, Monterey and Fresno. In the past two years these three PHAs developed 17 of the 27 new construction projects and 14 of the 24 ac/rehab projects completed by PHAs responding to the survey. Twenty of the projects used seller loans as part of the tiebreaker, and 14 used PBVs and seller loans. Going forward, six PHAs, now including Oakland, San Luis Obispo and Santa Barbara City in addition to the three mentioned above, intend to develop 35 new construction projects and 30 ac/rehab projects in the next two years. Only six of these proposed projects plan to use seller carry-back | While staff recognizes the value of housing authority projects, including the rehabilitation of public housing, staff continues to believe that counting public agency seller carryback loans towards the tiebreaker gives public entities an unfair competitive advantage. Staff does not find compelling the argument that the advantage should be maintained simply because few planned housing authority projects currently contemplate seller carryback financing. Staff further finds it administratively impractical to limit the number of projects receiving seller carryback credit. Staff is also not convinced that giving 50% credit for public seller carryback loans is fair when private seller carryback loans receive no credit.<br><br>Staff does find compelling the argument that land donations are sometimes structured as seller carryback financing. Staff proposes an amendment to continue giving tiebreaker credit for public seller carryback land loans to new construction projects. |

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| | | financing as part of their financing plan. It appears from these data that the use of the seller carry-back tool has already peaked and that restricting its use in the future is probably unnecessary. The use of the 9% program by PHAs has frequently been to rehabilitate or replace terribly dilapidated public housing stock that was originally built 50 - 60 years ago to very minimal property standards. Without a massive infusion of capital from the 9% program (needs are too great to fit the 4% program) these buildings will be demolished and residents will be displaced. PHAs, through their public housing programs, serve the very lowest income populations at extremely low rents – and sometimes no rent at all. We are the only long-term provider of housing for this segment, and we need to maintain this housing stock to continue our mission. We believe that serving this segment of the low-income housing population is 100% in keeping with the mission of the CTCAC program and is deserving of the special advantage offered by seller carry-back financing needed to prepare winning applications. The impact on the advantage on the overall tax credit program is small, but the impact on the potentially displaced residents is huge. (Ken Cole, California Association of Housing Authorities)<br><br>Eliminating public agency seller carryback financing will advantage new construction but virtually eliminate the use of 9% credits for existing affordable projects that need significant modernization and are not feasible with 4% credits because existing projects typically do not attract new subsidy. Closing the opportunity for 9% credits is not in the best interests of tenants of these aging properties. We suggest reducing public agency seller carryback by 50% for tiebreaker purposes. (Stephen Pelz, Housing Authority of the County of Kern)<br><br>Housing authorities are very concerned about this proposal but are gathering data. The pipeline of public housing rehabilitation projects seems to be ebbing. Rather than no tiebreaker benefit for seller carryback loans, we suggest limiting the number of projects that may receive credit for seller carryback financing. (Mary Ellen Shay, California Association of Housing Authorities)<br><br>We are opposed to this proposal. Our tenants have average incomes of $10,000. (Michael Duarte, Fresno Housing Authority)<br><br>We request an exemption for carryback notes from public agencies for land purchases. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>We strongly oppose this proposal because seller carryback loans are sometimes required for financial feasibility. An outright land donation may trigger the payment of state prevailing wage whereas a carryback note may qualify for the safe harbor in the Labor Code. (Christine Weichert, Sacramento Housing and Redevelopment Agency)<br><br>We oppose this change. After redevelopment, many cities have little cash but do have land. This change would advantage cash-rich cities that | |

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| | | can make loans and provides no added public benefit. (Kasey Burke, Meta Housing Corporation)<br><br>This proposal needs further evaluation. While it is commendable to level the playing field between public and private applicants, the all-or-nothing approach would have unforeseen negative consequences. Requiring public entities to donate the land will trigger prevailing wages, which could render projects infeasible. Instead, TCAC should encourage public agencies to recoup funds spend on developable land. If some limitation is necessary, we recommend giving credit for seller carrybacks from unrelated entities and from related entities that are public or faith-based. (Bill Witte and Frank Cardone, Related California)<br><br>We are concerned that together, the four proposed tiebreaker changes would have a huge negative impact on the rehabilitation of older projects with no acquisition value including those in the HCD portfolio. While we recognize that TCAC wishes to prioritize scarce 9% credits for the construction of new affordable units, 9% credits are essential for subsidizing the rehabilitation of units that could otherwise be lost. One way for TCAC to potentially address these concerns is through the creation of an additional set-aside for at-risk units which would avoid the necessity for legislation to change the definition of at-risk units. (Ray Pearl, California Housing Consortium)<br><br>NPH strongly supports this proposed change. We agree with staff that doing so will level the playing field between public and private applicants. (Amie Fishman, Non-Profit Housing Association of Northern California)<br><br>We request that seller carryback loans, at least for new construction, be counted for tiebreaker purposes. The few public resources still available should count. Enabling housing authorities to utilize the value of land and improvements furthers the goal of preserving the existing housing stock and the RAD program in particular. This proposal will also affect new construction such as the Santa Barbara County Housing Authority's project to replace 180 public housing units with 320 new apartments and condominiums. The housing authority will contribute $4.5 million to the first 4% phase and may not have the money to fill the gap on the second phase if 9% credits are not available. (Karen Flock and Nicholas Birck, Housing Authority of the City of San Buenventura)<br><br>We understand TCAC's motivation behind the seller carryback provisions. We are concerned, however, that this may cause the contribution of publicly owned land not to be counted as public funds in certain cases. Developers and government agencies use the carryback structure for two reasons. First, we have seen some developers express preference for a sale and carryback note so as not to increase construction costs by triggering the payment of state prevailing wage. CHPC does not take a position on the merits of this approach, but the sale and carryback note structure typically meets the affordable housing safe harbor in the Labor Code. Secondly, local governments often opt | |

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| | | for this structure rather than making an outright donation to avoid any perception of a public giveaway to a private developer. We urge TCAC to exempt carryback notes from public agencies for land purchases from the proposed tiebreaker change. (Richard Mandel, California Housing Partnership Corporation; Preston Prince, Fresno Housing Authority)<br><br>We fully support TCAC's efforts to reduce the advantage of public housing organizations through the utilization of seller carryback loans. This financing loophole often makes it impossible to non-governmental developers to compete against housing authorities. This change will ensure equitable competition in the 9% market. (John Fowler, People's Self-Help Housing)<br><br>We support TCAC's proposal to exclude seller carryback notes or loans that derive directly from sale proceeds from the tiebreaker. This is consistent with TCAC's longstanding policy to reward real cash public or private loans in the tiebreaker but not "paper" loans. (Kevin Knudtson, Community Economics)<br><br>We support this proposal and believe it creates a more level playing field. We suggest the language be clarified to make a distinction between a public agency seller carryback for land and one for improvements in an acq/rehab application. Public agencies sometimes structure land donations as a sale, with a carryback, residual receipts loan in the amount of the full sales price. In that case, the "land donation" takes the form of public funds, not land donation. It's our understanding that it is not your intention to exclude this as public funds. (Alice Talcott, MidPen Housing)<br><br>We support this change to level the playing field between public and private applications. (Marianne Lim, Burbank Housing Development Corporation; Andy Madeira, Eden Housing) | |
| 52 | 10325(c)(10)(A)<br><br>Land donations | This proposal would discourage public entities from donating land while also staying in the deal. TCAC should encourage public agencies and faith-based entities to recoup their investment via some form of ownership. (Bill Witte and Frank Cardone, Related California)<br><br>We oppose this proposal. Under inclusionary ordinances, we have partnered with master developers who provided land or financing to the project and sometimes asked to participate as a tax credit investor in the project. This change would dissuade these master developers from providing funding to meet an inclusionary requirement. (Vicky Ramirez, Jamboree Housing Corporation)<br><br>We recommend that TCAC clarify this provision that land donations and soft loans from a housing authority are not subject to the unrelated party rule and they will be recognized as coming from a public entity. The current language is unclear. (Kevin Knudtson, Community Economics) | These proposed changes apply only to land donations and soft financing provided by non-public entities. Public agencies may continue to have an ownership position and still receive credit for land donation or soft financing. Staff proposed an amendment to clarify this further. Staff does not agree that this allowance should extend to faith-based organizations.<br><br>Staff is not convinced that the proposed changes will dissuade master developers from providing project funding. It is staff's experience that master developers do not provide funding voluntarily but because they have to meet the inclusionary requirement. Staff is further concerned about subpar credit pricing if a master developer is the tax credit investor, because the credit sale is then not an arm's length transaction.<br><br>Staff shares the concern about shenanigans with the private land donation and soft financing provisions added in 2015 but is |

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| | | We support this proposal but believe it does not go far enough to prevent shenanigans. Unscrupulous users will still have the ability to easily skirt the rules through actors who are only indirectly related but still play a role in the projects, such as vendors and contactors. TCAC should consider revisiting the unrelated soft loan concept in total. (David Yarden, AMCAL Multi-Housing) | unaware of problems to date. Staff will continue to monitor the use of these sources of financing. |
| 53 | 10325(c)(10)(A)<br><br>Private soft resources | | No changes. |
| 54 | 10325(c)(10)(A)<br><br>Rental assistance | The proposed tiebreaker changes are good given the program's current structure. I support this change in connection with the change in the calculation of the Tranche B loan value described in item #28. (William Leach, Kingdom Development)<br><br>I am generally supportive of the tie-breaker changes because the focus should be on new construction. (Paul Patierno, Highland Property Development)<br><br>We opposed this proposal. A housing authority's award of rental assistance to a project typically through a competitive selection process reflects the goals and values of that agency. Rental assistance recipients average 20% AMI. The rental assistance increases the project's ability to house these extremely low income households and supporting the project's maintenance and needed service costs. We believe that the current formula was derived with these concerns in mind and that all constituencies understand the importance of keeping the 25% tiebreaker increase for rental assistance. (Ken Cole, California Association of Housing Authorities)<br><br>We opposed the reduction in tiebreaker benefit for rental assistance. The current treatment of rental assistance in the tiebreaker is appropriate because it fairly and equitably reflects the two types of value added by rental subsidies: 1) tranche B leverage; and 2) deep affordability by reducing tenant rents to 30% of actual income. There is no evidence that a disproportionate number of awards are being made or will be made to projects with rental assistance. Projects with rental assistance are inherently better than projects without. Rental subsidies represent more than the soft funds dollar equivalent of public funds, and the point system should continue to reflect this. Private developers, including for-profit and non-profit, receive benefit from rental assistance. (Scott Smith, Housing Authority of San Luis Obispo)<br><br>I urge you to withdraw the proposal. The rehabilitation of older HCD and USDA projects is equally important as new construction, and 9% credits are the only way to make such projects feasible. With this proposed rule in combination with the proposed rule on assumed loans, three of the four USDA projects in 2016 round two, as well as additional projects in round 1, would not have received credits. There is no justification for such drastic regulatory changes that will be harmful to | For simplicity and fairness reasons, staff continues to support one tranche B benefit for rental assistance instead of two separate rental assistance benefits. In order to provide some additional tiebreaker value to rental assistance, staff has proposed an amendment to the calculation of the tranche B benefit in Section 10325(c)(1)(C). Staff proposes no further changes to this section.<br><br>Please see the responses to comments in Section 10325(c)(1)(C) as the comments generally are repeated here. |

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| | | the effort to maintain and upgrade the energy efficiency of the existing portfolio financed by HCD, HUD, and USDA over the past 30 to 40 years. (Pat Sabelhaus, California Council for Affordable Housing; Michael Boettger, Michaels Organization)<br><br>We oppose this change. In almost all reasonable scenarios, this new method results in lower tiebreakers for homeless/special needs projects that are heavily reliant on subsidy, especially projects with significant public subsidy. Moreover, project based subsidies provide more value than just the 15 year capitalized calculation. Formerly homeless residents pay rents well below 40% AMI, and the contracts are almost certainly renewed. The formula captures neither reality. We also think this could disincentivize developers to take out conventional debt for the rental subsidy because they would be getting tiebreaker credit anyway. (Ben Rosen, Skid Row Housing Trust)<br><br>We oppose this change. We have used USDA Section 521 rental subsidy for farmworker housing in a community with limited public funds to contribute and are therefore fully aware of the critical role that rental subsidy plays in making projects feasible and affordable. If the proposal is adopted, we recommend calculating the Tranche B benefit for Section 521 projects by using 40% AMI rents. (Rachel Iskow, Mutual Housing California)<br><br>We oppose this change. The tiebreaker boost is a useful tool to promote the development of special needs housing which typically requires rental subsidy. On the one hand, were TCAC to incorporate the changes suggested above in our comment on Change 28, it would mitigate the effect of the elimination of the boost. Alternatively, TCAC might consider allowing a boost for those projects that feature a special needs population. (Brian D'Andrea, Century Housing Corporation)<br><br>We oppose this proposal. Rental assistance payments provided by tribes or tribal housing authorities to a LIHTC project are the primary reason such projects can operate successfully. These payments allow owners to properly maintain units given the relatively low rents residents can pay. (Marie Allen, Travois)<br><br>We are concerned that together, the four proposed tiebreaker changes would have a huge negative impact on the rehabilitation of older projects with no acquisition value including those in the HCD portfolio. While we recognize that TCAC wishes to prioritize scarce 9% credits for the construction of new affordable units, 9% credits are essential for subsidizing the rehabilitation of units that could otherwise be lost. One way for TCAC to potentially address these concerns is through the creation of an additional set-aside for at-risk units which would avoid the necessity for legislation to change the definition of at-risk units. (Ray Pearl, California Housing Consortium)<br><br>We opposed the proposed change. TCAC's comments suggest that the current system allows some applicants to obtain competitive advantage | |

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| | | twice for the same subsidy. However, it is quite clear that there is no so-called "double dipping" in the current system. The 25% boost to the tiebreaker score advantages applicants who are able to serve extremely low-income households due to having a commitment of scarce project-based subsidies. For those with operating subsidies, this is the only boost they get, which is appropriate. The additional tranche B benefit for applicants with rent subsidies like Section 8 receive a second benefit but not for the same component of the subsidy. Applicants with rent subsidies are only able to count for tranche B leveraging points the portion of the rent subsidy which is not already needed to subsidize operations. In an effort to avoid the perceived double dip, TCAC's proposal (though likely a drafting error) effectively drastically reduces or eliminates the benefit for applicants with project-based operating subsidies like Section 811, MHSA, VHHP subsidies and San Francisco's LOSP, even though they are providing critical housing opportunities for extremely low-income Californians that the tax credit program is otherwise not providing. We believe the program is best served by retaining the existing regulatory language. A second option would be to drop the 25% boost but to modify the present value formula to recognize the difference between the FMR and the more likely affordability level of 20% AMI for a rent subsidy project and the difference between the TCAC regulatory rent. Since TCAC does not propose to implement this idea in 2017, we believe 2017 would be better spent in a thoughtful discussion about this provision rather than adopting the current proposal now where it will sit until 2018. (Kevin Knudtson, Community Economics; Amie Fishman, Non-Profit Housing Association of Northern California; Dan Wu, Charities Housing)<br><br>We generally support TCAC's revised approach in creating a synthetic "tranche b" for all developments with operating subsidy in order to recognize the subsidy contract's contribution of public funds over time. However, the proposed changes do not capture the full present value of certain operating subsidies: it will systematically disadvantage those subsidies that impose budget-based rents or otherwise limit rents to less than FMR's. we recommend the following changes: 1) In the capitalized rent differential calculation, lower the presumed tax credit rents to 20% AMI for special needs or SRO units and 30% AMI for all other units. This standard better reflects the tenant-paid rents in such properties and thus more accurately captures the true subsidy payments over time. (In the majority of cases, actual tenant-paid rents in subsidized units are even lower, but we suggest 20% and 30% AMI as reasonable benchmark.)<br>2) Increase the presumed loan term to 30 years. Developers are regularly able to borrow against subsidy contracts using 30, 35, and even 40-year amortization. This reflects the capital markets' comfort with both renewal and appropriations risk and the unblemished contract renewal record for the various subsidy sources. Given this standard expectation that subsidy contracts will be in place well beyond the 15-year mark, it is appropriate for TCAC to recognize it as well. (Richard Mandel, California Housing Partnership Corporation) | |

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| | | We support the effort to increase the flexibility of how rental assistance is credited in the tiebreaker score. (John Fowler, People's Self-Help Housing)<br><br>We oppose. The goal of these two changes is to keep applicants from counting the same aspect of their project twice. However, there are two distinct components here. Projects should continue to be rewarded for the additional leveraging they do by taking on more debt underwritten by that overhang. This additional debt is a key source of financing, and should not be devalued. A separate concern is for subsidy programs that pay operating expense shortfalls versus paying higher rents (like San Francisco's LOSP). Projects with these programs would continue to be at a disadvantage with the proposed changes because they cannot capitalize the value of rent differentials. The benefit of additional leveraged debt is distinct from the percentage increase to the tiebreaker. This component of the tiebreaker score rewards projects that rent to extremely low-income households through a variety of subsidy programs. If this component of the tie-breaker is changed, projects with subsidy programs that cannot underwrite additional debt with that extra income will be at a disadvantage. For these projects, there is no "double dipping" happening at all, since they only receive this benefit, not the debt-underwriting benefit. (Cynthia Parker, BRIDGE Housing)<br><br>Rental subsidy is a key form of public financial support for projects that ensure true affordability for extremely low income households. It is critical then to give full weight to this public subsidy in the tie breaker score for projects that serve extremely low income households, including farmworkers. In order to do that, we would argue that projects with USDA Section 521 rental assistance be allowed to calculate the Tranche B using the 40% AMI rents used by SRO and Special Needs projects. This is based on information about the income levels of farmworker households that live in USDA-supported housing. However, we strongly urge TCAC to pull its proposal to modify credit for rent subsidies for further discussion and study. (Rob Wiener, California Coalition for Rural Housing)<br><br>We think your proposal to allow the Tranche B calculation regardless of whether debt is underwritten is a good one. However, we do not agree that the current system is double-dipping. Rental assistance provides two separate and powerful public benefits – 1) to allow the project to carry additional debt with the incremental income in excess of the regulatory rents, and 2) by allowing tenants to pay only 30% of their income toward rent, it allows us to serve much deeper targeting than the regulatory AMI levels. We think this second benefit can be captured with a small modification to your proposal. The increment should be measured to a lower AMI level than the 50% AMI (40% for special needs) currently allowed. In the MidPen portfolio, the average household income in our Section 8 units is 22% of AMI, with families at 23.5%, seniors at 19% of AMI and special needs households at 21%. Based on this data, we recommend that the increment be measured down to 25% AMI for family units and 20% AMI for seniors and special needs units. This same | |

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| | | formula could be applied to units with operating subsidies (such as Section 811 or a local operating subsidy), with the increment measured as the difference between the regulatory rent and the same assumed AMI levels stated above. (Alice Talcott, MidPen Housing)<br><br>We support this change. (Andy Madeira, Eden Housing) | |
| 55 | 10325(c)(10)(A)<br><br>Appraisal reviewer | | No changes. |
| 56 | 10325(d) | We support this change. (Pat Sabelhaus, California Council for Affordable Housing)<br><br>I support this change because it adds consistency for the development community and reduces administration for the committee. (William Leach, Kingdom Development)<br><br>We do not support this change because it might affect, among others, small projects located in community revitalization plan areas that will repair or replace dilapidated units serving extremely low-income households and that have redevelopment law replacement requirements. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>While we recognize the significant pressure to contain project costs, as well as the concern with the subjectivity of project-specific rulings, we believe it is important to preserve the ability to petition the Committee in the rare case when a project exceeds the high cost test, but only up to 150%. Project sponsors and other program stakeholders have expressed significant concern regarding the data and methodology used in determining the threshold basis limits. (Amie Fishman, Non-Profit Housing Association of Northern California; Richard Mandel, California Housing Partnership Corporation)<br><br>We support if the threshold basis limit calculation is improved. The high cost of construction is of concern to BRIDGE, and in principle we would support eliminating the potential for special consideration if projects exceed the high-cost test. In practice, however, we do not support the change because the high-cost test is based on threshold basis limits that we believe are calculated inappropriately. We suggest that TCAC revise its methodology for calculating threshold basis limits, in particular by adding more categories besides just counties and unit types. Furthermore, a decrease in threshold basis limits should only be allowed under compelling circumstances. Finally, adding an automatic inflation adjustment to the threshold basis limits methodology would help address the time lag between regulations and application, and application and construction. (Cynthia Parker, BRIDGE Housing)<br><br>We oppose. The industry continues to face construction price escalation that is putting our projects at risk. As a result, it is vital that TCAC reassess how it determines threshold basis limits. With basis limits and | While staff understands that the high-cost test may preclude some projects from being eligible for 9% tax credits, staff continues to believe that there needs to be a limit on costs and that the current 130% limit is appropriate. Whereas the committee to date has never granted an exception to the high-cost rule, staff further believes that the deletion of the special consideration process will not harm any project that is not already likely to be excluded. Moreover, staff is proposing both regulatory and administrative changes to how it establishes the threshold basis limits. The additional threshold basis limit increase proposed in Section 10327(c)(5)(F) for projects in high-opportunity areas will make it easier for some projects to pass the test. In addition, staff intends to make a few administrative changes to the calculation of threshold basis limits for at least 2017. First, staff intends to set the limits that apply to rural counties as the floor for all counties, which will benefit more urban counties with particularly low limits. Second, TCAC intends to disallow any decreases in the limits for 2017. Staff already applies the most recent inflation available to all historic cost data. Furthermore, staff is always open to considering other specific suggestions on how to improve the limits, understanding that no methodology will ever be considered perfect.<br><br>No changes. |

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| | | construction costs misaligned, it is important that developers maintain the ability to appeal to the committee. (Ed Holder, Mercy Housing California)<br><br>We urge TCAC to continue to develop more accurate basis limits. In particular, we think there should be a "hold harmless" with limits not being allowed to decrease. We also think you should consider where it is appropriate to combine counties in your methodology, which would help particularly in counties with small sample sizes. Currently the Santa Clara basis limits are 14% below Alameda and San Mateo counties, despite our experience that costs in that County are no lower. We also think that an inflation adjustment factor is needed to account for lags in the data. This was made clear in 2016 when limits went down in a number of counties despite rapidly rising construction costs. (Alice Talcott, MidPen Housing)<br><br>We recognize the importance of cost containment but are concerned by the rigidity of this proposed regulation given the current data and methodology used to determine the threshold basis limits. We urge TCAC to continue to develop more accurate basis limits to better reflect construction costs. This includes adding hold harmless rules to maintain threshold levels and not allow them to decrease, since in practice construction costs very rarely decrease. (Andy Madeira, Eden Housing) | |
| 57 | 10325(d)(2) | | No changes. |
| 58 | 10325(f)(2)(A) | | No changes. |
| 59 | 10325(f)(6) | We support this change. (Elizabeth Kuwada, Eden Housing; Alice Talcott, MidPen Housing; Pat Sabelhaus, California Council for Affordable Housing; David Yarden, AMCAL Multi-Housing; Andy Madeira, Eden Housing)<br><br>I wholeheartedly support removing "busy work" from the application when staff doesn't need it to analyze the merits of the project. (William Leach, Kingdom Development)<br><br>We support eliminating this time-consuming and costly requirement. (Marie Allen, Travois) | No changes. |
| 60 | 10325(f)(7)(A)<br><br>Analyst consultation | I support the recommendation but also urge you to eliminate the requirement for non-competitive projects as these meetings are duplicative of the standard communication between the developer and the consultant. The added meeting is a waste of time. (William Leach, Kingdom Development)<br><br>We support eliminating this time-consuming and costly requirement. (Marie Allen, Travois)<br><br>We support this item. (David Yarden, AMCAL Multi-Housing) | Because almost all, if not all, competitive projects score maximum sustainability points to be competitive and an applicant generally must retain a sustainability consultant to meet the point thresholds, staff continues to believe that applying the consultation requirement to these competitive projects is redundant. Moreover, to the extent that a project were to provide insufficient documentation of the specific consultation requirements, a project is at risk of disqualification even though it may achieve maximum sustainability points. Staff is convinced that competitive |

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| | | We oppose this change. Some of the most cost-effective efficiency opportunities can be lost if an energy consultant is not an early member of the design team. We further recommend providing adequate guidance on standards for compliance with the current requirement. For this measure to be effective, it is necessary to provide a step-by-step definition of the cost-effectiveness methodology, and specify the professional that can sign off on the measure. More generally, we recommend that TCAC pursue a comprehensive approach to reducing the administrative burden, instead of eliminating individual forms that may serve an important function. Many of the submission requirements up for elimination this year are either critical to the success of the project, meeting TCAC's goals, or necessary to demonstrate compliance with the regulations. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | applicants will continue to engage consultants early in the process without the requirement.<br><br>Staff does not agree, however, that the requirement should be eliminated for non-competitive projects. The 2015 regulation changes removed the requirement for new construction projects to exceed energy efficiency codes. Nonetheless, there are many sustainability features that may benefit the project or even result in long-term cost savings. Staff continues to believe that requiring applicants to consider these features even if none are required is good public policy and achievable at minimal expense. Staff also does not agree that further definitions are required for the consultation meeting. The regulations already specify with whom the applicant must meet, and staff believes these qualified individuals will provide adequate information.<br><br>No changes. |
| 61 | 10325(f)(7)(A)<br><br>CABEC certification | We support to reflect the workforce capacity of the market and not negatively impact the project timeline. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | In conformance with the changes to Section 10325(c)(6) (A) and (C), staff proposes an amendment to allow consultation with NGBS Green Verifiers. |
| 62 | 10325(f)(7)(A)<br><br>Workbook | | In conformance with the changes to Section 10325(c)(6) (A) and (C), staff proposes an amendment to reference NGBS silver or higher certification. |
| 63 | 10325(f)(7)(A)<br><br>Cross-reference | | Staff proposes a technical amendment to reference the correct section of the recently adopted CDLAC regulations. |
| 64 | 10325(f)(7)(E) | We ask for an exception to special needs units in addition to SRO units. We are working on a project for persons with developmental disabilities with one-bedroom units that may or may not have a stove. (Felix AuYeung, MidPen Housing)<br><br>TCAC should allow a convection oven/microwave plus at least two cooktop burners to qualify as a stove in an SRO or micro-studio apartment. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>For some special needs populations including a stove could pose a serious risk for themselves and others. NPH proposes that TCAC should provide a waiver of this requirement for special needs units if it is demonstrated that the target population does not need such appliances. (Amie Fishman, Non-Profit Housing Association of Northern California)<br><br>We agree with the requirement that every unit offer a stove and refrigerator but disagree with excluding SROs from the requirement. Data show tenants remain housed for longer periods and more stably when they live in an apartment that reflects permanency, rather than | The proposed change already exempts SRO units from the stove requirement. This exemption reflects the current condition in many SRO units and the very small size of SRO units, which may not be able to accommodate a stove. It does not seek to establish lesser standards for any type of resident. Staff does not agree that non-SRO special needs units or micro-studios should also be exempt. Owners have the ability to disconnect or install safety measures on stoves in individual cases of known risk.<br><br>No changes. |

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| | | hotel- or dorm-like units. Projects should not be excluded from the amenities and quality standards of other apartments TCAC funds, simply because formerly homeless people reside in those projects. We further recommend requiring refrigerators to be apartment-sized refrigerators of at least 7 cubic feet. (Sharon Rapport, Corporation for Supportive Housing)<br><br>We request that the requirement to have a stove include an exception for special needs projects, or allow for a waiver. For some special needs populations, including those with mental health or developmental disabilities, stoves could be a safety hazard and this population could be better served with a microwave. (Alice Talcott, MidPen Housing) | |
| 65 | 10325(f)(7)(K) | The proposed accessibility language looks good. (Charlie Pick, Basis Architecture and Consulting)<br><br>We propose going back to the previous standard of 5% mobility features and 2% communications features for rehabilitation projects as those percentages more closely match the actual number of disabled tenants at each community. We are already required by law to make reasonable accommodations for any other tenants (beyond the 5%/2%) that make a request for modifications to their units due to any particular disability. (Thomas Erickson, Highridge Costa Housing Partners)<br><br>We appreciate the clarifying language in the first paragraph regarding new construction projects. We think specific reference to the standards for mobility and communication units would be useful here as well as in the second paragraph. In regards to rehabilitation projects, we believe that the proposed language regarding common areas will reduce accessibility unnecessarily. While the language requiring accessibility of only one set of common areas and paths of travel may not seem significant, it has the effect of reducing accessibility in all rehabilitation projects, whether or not such reductions are warranted by cost or physical barriers. Not all common areas are identical or offer similar amenities, so this would result in unequal access for people with disabilities. And, even in buildings where amenities were duplicated in different common areas, people with disabilities would be harmed if amenities in one common area broke down and they were not able to access similar amenities elsewhere in the building. In a particular project, a reduction might be warranted and could be approved by waiver. We ask that TCAC instead adopt language that mirrors the comparable provision in HUD-funded projects that require accessibility to the maximum extent feasible unless it would impose “undue financial or administrative burdens on the operation of the project.” (Dara Schur and Autumn Elliot, Disability Rights California)<br><br>Requiring all new construction projects to adhere to Chapter 11(B) is unnecessarily burdensome. Chapter 11(A) is more appropriate for private rental units. Chapter 11(B) should be for common areas only and public housing. Continuing to push LIHTC projects to meet the public housing standards diminishes the effectiveness of LIHTC program as a private sector alternative to public housing. Because other accessibility | While staff is sympathetic to the desire to make all common areas accessible, staff is not convinced that requiring only one of each common area facility type and amenity to be accessible will result in unequal access. To the extent that there were a significant difference in the amenities provided at different common areas, staff would expect both common areas to be accessible. On the other hand, requiring all common areas that have the same amenities, such as laundry and trash rooms, to be accessible invariably adds significant cost. In this one small way the proposed change seeks to reduce the administrative burden on TCAC staff of responding to waiver requests by effectively deeming these added costs to be an undue financial burden, particularly considering the marginal benefit.<br><br>Staff does not feel that further definition of standards for mobility and communication units is necessary given that the building codes already contain them and they are reference in the succeeding paragraph of the TCAC regulations.<br><br>With respect to the comment to return to the 5%/2% standards or the Chapter 11(A) standards for rehabilitation projects, the committee rejected that proposal in 2015. Staff is open to considering the idea of an adaptability reserve in future regulation rounds.<br><br>The waiver process already allows for consideration of cases in which making at least one of each common area facility type and amenity is infeasible.<br><br>Staff disagrees that the proposed change are a significant increase in accessibility requirements. The intended applicability of the existing language is very difficult to discern, but the plain language of the regulation seems clear that, absent a waiver, 10% of all units in a rehabilitation project shall be mobility accessible per Chapter 11(B), regardless of the nature of the rehabilitation. Moreover, that seems to be the common understanding among practitioners and is how staff has enforced the regulation since at least the beginning of 2015. |

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| | | requirements apply, there is little additional benefit for treating TCAC projects as public housing. With respect to rehabilitation projects, the proposed change is welcome and a reasonable approach. We suggest adding “to the maximum extent feasible” to the sentence on common areas. The sentence with “In all other respects…” is redundant. (Bill Witte and Frank Cardone, Related California)<br><br>We are concerned that this proposal is a significant change that we must oppose for cost and feasibility reasons. The proposed language adds significant new requirements for acquisition/rehab projects beyond California Building Code Chapter 11(B) requirements. TCAC’s response to comments on proposed regulation changes promulgated in 2014 confirm:<br>> For rehabilitation projects that are exempt from ADA accessibility requirements because project owners are performing ‘like for like’ repairs, the project is adhering to the provisions of the California Building Code Chapter 11(B), and a waiver from the TCAC Executive Director would not be necessary.<br>For a 200 unit 4% rehab project the new requirement would require 20 Accessible Units with many adapted paths of travel in a project that assuredly does not have 20 Accessible parking spaces. At a budget of $25,000 for each upgrade, this is a half million cost for unit upgrades for households that are not likely to be disabled. This cost can easily reach 10% or more of the total project cost, increasing the cost, or reducing funding for other important rehabs. We propose a better alternative as capitalizing an adaptability reserve that will allow the project to make no-cost reasonable accommodations to provide useful adaptations to meet the needs of existing and future residents. We suggest scaling the size of the reserve by project size, and suggest that the additional reserve be 10% of the TCAC-required Operating Reserve amount. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We appreciate the clarification language, which is an improvement and removes ambiguity. However, achieving the required threshold in a rehabilitation project is still very difficult in some cases. (Marianne Lim, Burbank Housing Development Corporation) | Staff proposes a minor amendment to remove an additional “and.” |
| 66 | 10325(f)(7)<br><br>Waivers | The proposed accessibility language looks good. (Charlie Pick, Basis Architecture and Consulting)<br><br>I support because we need more flexibility on addressing accessibility in existing projects. (William Leach, Kingdom Development)<br><br>We concur with 1) the deletion of ‘”unnecessary” as a reason to avoid accessibility provisions; 2) the need for architectural and specific costs documentation as opposed to a reference to the Capital Needs Assessment; and 3) the need to allow the Executive Director to approve waivers for rehabilitation projects in appropriate circumstances. Our concern is with the standard of “excessive expense or impracticality.” We believe you should follow the federal standard of “to the maximum extent feasible so long as it doesn’t impose undue financial hardship and | Staff concurs that “undue financial burden” is a better standard than “excessively expensive” and proposes an amendment accordingly. Staff does not agree, however, that referring to “administrative burdens” in lieu of “impractical” is an improvement. Staff has asked for but not received any guidance on how to interpret the extremely vague concept of “administrative burden.” Moreover, impracticality is not the same as a financial burden because staff has encountered cases, such as townhomes with all bedrooms and bathroom on upper floors, in which the issue is not necessarily cost but livability of the modified unit. Staff is pleased to be a leader in accessibility but believes we need some additional flexibility to address the numerous complications |

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| | | administrative burdens." We believe the HUD language provides better, more practical guidance and that both developers and TCAC will ultimately find a standard that is consistent with federal regulatory language to be more workable. The reference to "practicality" should be deleted because it is simply another (but less clear) way of describing a financial burden. We concur with the provision requiring the applicant to demonstrate the excessive cost with estimates from the contractor. However, there is no language in the proposed regulatory changes referencing cost estimates, and we propose that such language be added. (Dara Schur, Disability Rights California) | and expenses associated with applying the requirements to rehabilitation projects.<br><br>Staff does not believe that referencing cost estimates in the regulations is necessary because it is not clear how an applicant could demonstrate excessive or undue expense absent a cost estimate. |
| 67 | 10325(f)(7)<br><br>Documentation requirements | We urge TCAC to retain the submission of documentation to support performance above the energy code. With electronic submissions, it represents virtually no effort, and it could save a tremendous amount of effort later on if the documentation is needed to resolve a dispute. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | In conformance with the changes to Section 10325(c)(6) (A) and (C), staff proposes an amendment to reference NGBS silver or higher certification.<br><br>Staff proposes a technical amendment to reference the correct section of the recently adopted CDLAC regulations. |
| 68 | 10325(g) | | No changes. |
| 69 | 10325(g)(1)(B) | We are supportive of allowing greater flexibility regarding units size but are wary of a race to the bottom scenario which may hurt low-income tenants. (John Fowler, People's Self-Help Housing)<br><br>We support increased flexibility regarding project design and unit sizes, but we are concerned that pressures to lower costs could encourage shrinking unit sizes for the sake of cost efficiency. (Kevin Knudtson, Community Economics)<br><br>Though we respect TCAC's continued effort to control costs we have concerns with this proposal. By lowering the minimum square footages, projects will have difficulty meeting the requirement that "Bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom." TCAC should give consideration to what units should look like so they are adequately sized to accommodate families. (Rob Wiener, California Coalition for Rural Housing) | Staff does not agree that lowering minimum square footage requirements by 50 or 100 square feet will hurt low-income tenants. These minima continue to exceed building codes which protect public health and safety. With respect to the existing language regarding the adequate sizing of bedroom and living areas, current staff is not clear how to interpret or enforce this sentence and, in any event, does not see an inherent conflict.<br><br>No changes. |
| 70 | 10325(g)(1)(D) | As land becomes more scarce and expensive, the play/recreational facility requirement becomes more difficult to comply with, particularly for smaller projects. Providing recreational space for 13-17 year olds is not the best use of space. We recommend deleting the 13-17 requirement or exempting projects of less than 50 units from it. (Kasey Burke, Meta Housing Corporation)<br><br>The requirement for children ages 13-17 is very vague which leads to subjective judgement and interpretation. We encourage TCAC to provide further guidance. The biggest challenge is that many of teenage facilities will take large amount of space and add cost. In addition, we have had great success where residents are able to use the onsite child care provider's outdoor recreational area after school hours and on weekends | While staff understands space and cost constraints, staff continues to believe that having a play/recreational space for teenagers in large family projects is an important amenity. Moreover, the current regulations require play/recreational space for all tenants, which means that the proposed requirement is not new but merely explicit. Staff concurs that teenage space need not be outdoors or "dedicated" and proposes amendments to 1) allow for indoor or outdoor space for ages 13-17; and 2) to allow for common area space to meet the age 13-17 requirement if the area is accessible to minors at all times between 6 a.m. and 10 p.m. except when the area is reserved for service amenities or special events. Staff is reluctant to require more specificity in order to allow for flexibility. |

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| | | and holidays. We propose that if a project has a licensed onsite day care center with appropriate outdoor recreational facilities, and if the project sponsor has a signed shared use agreement with the day care provider, then TCAC would consider the shared outdoor recreational facilities as meeting the requirements of this section. This will reduce costs. (Dan Wu, Charities Housing)<br><br>We do not believe that children 13-17 would benefit from outdoor play equipment in the same way that younger children would. We propose to keep most of the proposed changes except that for children aged 13-17 the word "outdoor" should be removed to provide developers with more flexibility in providing appropriate spaces for this age group. The word "dedicated" should also be removed as such additional facilities would be financially infeasible. (Amie Fishman, Non-Profit Housing Association of Northern California)<br><br>We oppose this proposal. We are concerned about the challenge of the specific sizing requirements on higher-density urban sites, and about the increased ambiguity of "outdoor play or recreational facilities" for children ages 13-17. In many urban environments, play opportunities are more adequately satisfied by nearby parks. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We are very concerned about adding an explicit requirement for children ages 13-17 and that this requirement cannot be met with the community room unless "that square footage is dedicated as a play/recreational facility for children." Unlike younger children, it is not at all clear what types of dedicated facilities are appropriate for serving teenagers. Sports facilities like basketball courts create noise and other management issues and are also not viable on higher density projects. Indoor facilities such as community rooms or exercise rooms can be programmed for use by teenagers, but it is not reasonable or cost effective that these spaces would be dedicated for that sole use. If we are required to dedicate such space, it will require reducing the amount of units that can be provided or increasing costs to create spaces for a single-use, rather than multi-purpose. We urge you to delete this requirement. (Alice Talcott, MidPen Housing)<br><br>We do not believe that children 13-17 would benefit from outdoor play equipment. The reference to "outdoor" should be deleted as well as the reference to "dedicated" indoor space as additional facilities would be financially infeasible. (Marianne Lim, Burbank Housing Development Corporation; Andy Madeira, Eden Housing) | Staff concurs that outdoor day care play areas should count towards the age 2-12 square footage requirement if it is available to children when the day care center is not open. Staff proposes an amendment accordingly.<br><br>Staff reiterates that service amenities do not satisfy this requirement. Programming is not a substitute for physical space when programming is not available.<br><br>The regulations continue to allow a waiver for projects that demonstrate nearby, readily accessible recreational facilities. |
| 71 | 10325(g)(1)(E) | We support this change. Typically, existing tribal communities are already equipped with common space, and to the extent the space is adequate to meet their needs, they could eliminate a costly component of the project. (Marie Allen, Travois)<br><br>We appreciate this change and think it will help use housing money more wisely. We had to add a very small amount of square footage, and the | No changes. |

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| | | cost per square foot was very high. (Marianne Lim, Burbank Housing Development Corporation) | |
| 72 | 10325(g)(1)(G) | | No changes. |
| 73 | 10325(g)(1)(J) | Large sections of Kern County including entire cities such as Wasco, Arvin, and Lamont show up red on the UCD ROI index, and many non-red areas are in sparsely populated regions not suitable for new projects. Residents of the areas in red are some of the lowest income persons in the state and need quality affordable housing – the primary purpose of the LIHTC Program (Stephen Pelz, Housing Authority of the County of Kern)<br><br>This proposal would effectively redline a number of geographies around the state. In the East Bay alone, nine BART stations are in or directly adjacent to low-opportunity areas. We believe it is incredibly important to build housing in these transit-oriented areas to link people with jobs. Moreover, this policy is at odds with the cap and trade program's set-aside of disadvantaged communities and the 130% basis boost for QCTs. At a minimum, more definition of community revitalization area is need to include BART or MTC plans. (Elizabeth Kuwada, Eden Housing)<br><br>We are most concerned about this proposed change. Whole rural communities would be excluded from new family affordable housing (Holly Wunder, Mutual Housing California)<br><br>We oppose the proposal as we thought the purpose of the LIHTC program was to spark investment in lower-income areas. It's unlikely that cities will have community revitalization plans in the absence of redevelopment. (Steve Hernandez, Cesar Chavez Foundation)<br><br>I oppose this proposal because it would prohibit projects in some areas that need it. It will be based on data that the affordable housing community knows nothing about. It will kill projects that are currently being planned.<br>It will kill projects when the data changes and one's project is now in such an area. Such an opportunity index should only be implemented as an incentive and should not be used as an absolute prohibition. (William Leach, Kingdom Development)<br><br>I strongly oppose this proposal. While the concept is good in general, lots of the areas in red on the map are good areas. The index does not seem to account for gentrification. Pipeline projects need at least three years to adjust to such a prohibition. This proposal needs a lot more work. (John Seymour, Jr., National CORE) | Staff withdraws this proposal. Staff continues to believe that the issues of deconcentrating poverty and creating opportunity for residents of family projects are worthy of further discussion. Staff proposes, with HCD, to convene forums next year to continue these discussions and explore various alternatives for making progress on these desires. |

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| | | The gradations in opportunity from one area to the next are not always explicable. I suggest normalizing the categories. (Peter Armstrong, Wakeland Development)<br><br>This prohibition has the unintended consequence of prohibiting funding for certain projects in some areas, most notably the Central Valley and rural communities. In contrast, the intent of our Regional Opportunity Index is to target resources and policies to the areas of lowest opportunity. As a result, the Center does not support adoption of this proposal. (Bernadette Austin, UC Davis Center for Regional Change)<br><br>This proposed change has the potential to create a host of unintended consequences. Investments in low-opportunity areas provide a significant public benefit by not only creating safe, decent, and affordable housing but also by positively transforming and enhancing the neighborhood. Before adopting this proposal TCAC should review projects awarded over the past two years and in the next two years to determine the effects. If then warranted at all, the proposal should not take effect until 2020. In addition, TCAC should explore giving some factors in the index greater weight than others. (Todd Cottle, C&C Development)<br><br>While we work in high-opportunity areas, we strongly oppose this proposal because it would have serious, negative consequences on low-income families. New construction helps address one of the root problems of why an area is a low-opportunity area: lack of investment. New construction is a catalyst for other types of investment and neighborhood change. Affordable housing in low-opportunity areas recognizes the connection between housing and healthcare. Opposition to affordable housing in high-opportunity areas can result in fewer units created overall. Under the proposal, new housing in low-opportunity areas will be limited to senior and special needs populations, which can concentrate populations of highest users and strain public resources, which is the opposite of desired public policy outcomes. Moreover, many of the low-opportunity areas defined by the index are near or within easy access to major job centers and transportation hubs. Lastly, projects currently in the pipeline are counting on credits and could be made ineligible by this rule. (Jesse Slansky, West Hollywood Community Housing Corporation)<br><br>While we understand the concern of disparate impact, the members of SCANPH do not believe this is a useful way to address the concern and are strongly opposed to this proposed change for the following reasons: 1) The proposed language is a blunt instrument and does nothing to encourage family housing in high opportunity areas. 2) While undoubtedly not CTCAC's intent, we have the substantial concern that the proposed language's effects would be eerily reminiscent of redlining. 3) Some of these "low-opportunity areas" are also the most affordable areas where more units can be built for the same amount of government funding. Prohibiting projects in these areas will mean fewer units built overall. 4) The proposal excludes a large chunk of the neediest | |

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| | | populations from accessing these good and affordable housing choices. We cannot expect many of these residents to uproot themselves from their existing communities and network of support or move to areas where they may be uncomfortable due to socioeconomic and cultural differences. 5) The language could serve to make it harder to build affordable family housing at all, potentially regulating TCAC out of family housing. 6) The ROI does not appear to be an appropriate index to use in the context of affordable rental housing due to the data sources selected by UC Davis. For example, the Housing Opportunity Category assigns the "low-opportunity" label to a census tract if the existing housing is overcrowded and unaffordable. In our opinion, this is exactly where new housing should be built. The Civic Life Category also assigns the "low-opportunity" label for reasons that are inconsistent with where affordable housing is most needed. The Civic Life category measures neighborhood stability by the number of households who haven't moved over the past year and the number of people with U.S. Citizenship. 7) The ROI is a static tool incapable of including and projecting possible change. In many markets in the SCANPH region, gentrification and skyrocketing rents displace low-income renters — a reason to support the development of more affordable housing in areas that currently may be low-opportunity. 8) There is no exemption for projects in "low-opportunity areas" that have good public transit options. 9) Many developers and cities have acquired or invested heavily in sites based on the former threshold and scoring criteria. Changing such criteria so suddenly would force these entities to incur great losses and further reduce the resources that could go into the construction of actual projects. If approved, the proposal must have a grace period or exempt projects that have already started their pre-development process. (Maira Sanchez, Southern California Association of Non-Profit Housing; Tara Barauskas, Community Corp. of Santa Monica)<br><br>We have major concerns with the proposal. In some rural and/or small communities, such as Lindsay, the entire city is "low-opportunity" and therefore no new construction, large-family projects can be constructed through the 9% program. Like many rural communities in California, Lindsay is in desperate need of high-quality affordable housing opportunities near transit and other service amenities. Removing the ability to utilize 9% credits in Lindsay would unfairly penalize them as a result of this otherwise well intended policy. Alternatively, the committee should exempt rural projects and projects in Disadvantaged Communities to resolve inconsistency with the AHSC Program. (Tom Collishaw, Self-Help Enterprises)<br><br>We oppose this proposal because there needs to be a balance of investment in low-income neighborhoods. TCAC should encourage development in high-opportunity areas as opposed to prohibiting specific types of development in low-opportunity areas. We are also concerned about the introduction of yet another data set (in addition to HUD and CalEnviroScreen) to evaluate the concept of opportunity. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco]) | |

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| | | We oppose this change. At best, we believe the proposal undervalues the potential choice of a resident to remain in a neighborhood where they may have ties to family, friends, schools, employers, and religious and cultural institutions. At worst, we believe it potentially negates this choice and paternalistically identifies neighborhoods where residents "should" move. Further, we believe it undervalues the ability of a thoughtfully planned and well executed affordable development to catalyze neighborhood revitalization and reinvestment. We believe this type of a dramatic change in public policy requires a more robust process of feedback and dialogue. (Brian D'Andrea, Century Housing Corporation)<br><br>While we agree that efforts should be made to locate family housing in locations that provide residents the best possible opportunities for success, we also believe that further study and analysis is needed on the best tool to measure these opportunities. Under the ROI, new growth areas in West Roseville are red. While these areas are now being built out and therefore red, they very likely will be green in the future. Excluding areas like this eliminates the opportunity for families to be included in new growth areas with great schools. We further believe that it is unwise to use a tool whose "life-cycle" is unknown, whose creation and maintenance is partially privately funded, and whose frequency of updating is unknown. Lastly, whereas developments take years to bring to application, would a project need to qualify when the land was secured or when the application is submitted to TCAC? (Geoffrey Brown, USA Properties)<br><br>The proposal is similar in concept to HUD site and neighborhood standards but not aligned in the details, particularly in the criteria for granting an exception in revitalization areas. The TCAC and HUD regulations would be better aligned if TCAC accepted 1) a letter from HUD approving the project under its standards, and 2) direct documentation from the applicant that the project meets HUD's broader community revitalization exception. With respect to the latter, not all projects receive HUD financing, and local governments may be reluctant to provide a letter for a project that meets TCAC's proposed standard. (Ken Cole, California Association of Housing Authorities; Preston Prince, Fresno Housing Authority)<br><br>The most troubling aspect of this proposal is that it would bar the development of farmworker housing in agricultural communities. We recommend withdrawal of this proposal or at least an exemption for farmworker housing. Withdrawal would also assist your desire to use more 9% credits for new construction. (Pat Sabelhaus, California Council for Affordable Housing)<br><br>We oppose this change because it would have the effect of redlining underserved low-income neighborhoods that are often most in need of assistance. Also, we question the mapping tool used to measure low-opportunity areas. (James Silverwood, Affirmed Housing) | |

We understand the goal of locating large family projects near resources that would most benefit tenants, like jobs and schools. However, many tribes have these resources in place for tribal members which may not be properly represented in the ROI. The demand for large family, affordable housing is always high in tribal communities, and tribal members are unlikely to move to move away to “higher opportunity” areas and should not be expected to. 20 of 110 federally recognized tribes in California are in low-opportunity areas. We recommend exempting Native American apportionment projects from this provision. (Marie Allen, Travois)

We oppose this change. This change could be very disruptive to deals in the planning stage since these low-opportunity areas change each year. In addition, it is counter-intuitive to good public policy to avoid funding in locations that may need it most. In addition, we cannot make sense of the ROI. (Kasey Burke, Meta Housing Corporation)

There are several problems with this proposal. The ROI is not refined enough. Colors change drastically across city streets. The policy is counter to the AHSC priority for disadvantaged communities and TCAC’s desire to cut costs. Investment should be encourage in low-opportunity areas, and TCAC should not restrict a city’s ability to select areas for affordable housing. If TCAC moves forward, it should lower the threshold and grandfather projects in for one year after an ROI change. (Bill Witte and Frank Cardone, Related California)

We understand the concern of disparate impact, but we find significant issues with the proposed changes and urge staff to work on this over the next year. In many cases, the very neighborhoods identified as “low opportunity” are precisely those most at risk of gentrification and displacement. Getting the housing in before that process begins is a good strategy even though in the short-term it appears like it is only adding new housing in low-opportunity areas. In addition, this proposal is exactly the opposite of the AHSC emphasis on directing investments into Disadvantaged Communities. Also of concern are the ROI maps. However, irrespective of the data source, there are still compelling circumstances under which building housing in currently low-opportunity areas is a good idea. There is also an argument to be made about providing high quality, healthy, and safe housing in low-opportunity locations as those are locations where most low-income communities will live regardless of whether affordable housing is provided elsewhere. Affordable housing generates many local benefits such as jobs, after school programs, and an infusion of resources into depressed neighborhoods that might never experience such investment. (Ray Pearl, California Housing Consortium)

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| | | such as the Coachella Valley. Development in low-opportunity areas can often trigger the transformation of communities. In Anaheim, our projects spurred other landlords to improve their properties. TCAC could instead rely on the market study to demonstrate market need, penetration rate, and capture rate. (Vicky Ramirez, Jamboree Housing Corporation)<br><br>We understand the reasons but have strong reservations about use of the ROI. We believe the data causing the low-opportunity rating are reasons why more family housing should be built in these census tracts. For example, the housing factor is based on the fact that housing is overcrowded and unaffordable. We also do not recommend looking for an alternative index because certain issues will be present no matter the index, such as arbitrary boundaries, differing outcomes in rural and urban markets, lack of public control over the tool, and changing designations over time. (Sarah Letts, Hollywood Community Housing Corporation)<br><br>We appreciate the intent of this provision but believe TCAC will fail to achieve the intended purpose of this proposed change. The proposal will likely result in housing more people already living in "high opportunity areas," which could result in housing more white tenants than who would otherwise be housed if funding housing across a community. Excluding the "low-opportunity areas" basically excludes a large chunk of the neediest populations from accessing good and affordable housing choices in their own communities. Developers have the greatest impact by making affordable housing projects to existing residents of "low-opportunity areas." The proposal could also result in limiting tenant choice. At a minimum, the proposal needs to be phased in. (Sharon Rapport, Corporation for Supportive Housing)<br><br>We urge TCAC to postpone making such an important change without further testing and refinement. While we supports policies that expand housing location choices for low-income families with children into lower-poverty, better-resourced neighborhoods, we do not think prohibiting certain large-family developments in low-opportunity areas will make substantial progress towards this goal because it does not address the challenges that developers face in creating new affordable family units in higher-opportunity areas. Further, we are concerned that the proposed approach of using the ROI to identify "low-opportunity" areas has not been thoroughly vetted or thought through with respect to LIHTC development in the specific context of California and could have significant unintended consequences. We find multiple weaknesses in the ROI methodology with respect to the purpose of the proposed regulation. At a minimum, TCAC should phase in any such change over at least two years. (Richard Mandel, California Housing Partnership Corporation)<br><br>We strongly oppose this proposal. Investing in neighborhoods that are not currently being well served is of critical importance to providing housing choice. A balance approach that promotes access in so called high-opportunity communities and ensures access to housing resources and investments for those who choose to remain in other communities is | |

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| | | the best way to create and maintain sustainable, economically vibrant, and health communities. HUD's AFFH rule embraces such a balanced approach. In addition, deeming some neighborhoods low-opportunity is an abuse of language that does a disservice. (Michael Bodaken, National Housing Trust)<br><br>We oppose this addition. While we strongly support efforts to focus construction of affordable housing in areas of opportunity, we believe this is best accomplished by an incentive approach rather than an absolute redlining restriction of sites in areas determined as low opportunity by a flawed index. The tax credit program has at least two tools that make the addition of this language unnecessary: (1) the Site Amenities scoring seeks to locate projects in close proximity to necessary amenities – avoiding areas devoid of public services. (2) Most local funders will be preparing updated plans to address the Affirmatively Furthering Fair Housing Standards. Since the leverage requirements and tiebreaker effectively only support projects supported by local agencies, we believe this is an effective mechanism to ensure that housing is located in areas of opportunity based on local knowledge and resources, not an academic index with significant flaws. Finally, we believe it is inconsistent with AFFH guidelines to prevent tax credit resources to be used to provide affordable and high-quality housing in areas of minority and low-income concentration where often the other alternatives are overcrowding and/or very substandard poorly-maintained housing. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>This proposal could have the effect of redlining disadvantaged communities and hindering new construction of large family housing in the Inland Empire. It is imperative that local government officials retain the ability to work with developers to identify and meet local housing needs. New housing developments act as a catalyst within disadvantaged communities for other investments and provide real benefits for existing residents. The terms related to the exemption for community revitalization programs are not defined and may eliminate communities with limited funds from competing for tax credits. (Al Boling, City of Ontario and Ontario Housing Authority)<br><br>Conceptually, we support placing large family developments in high opportunity areas as a way to promote social equity for low-income families by increasing access to high quality education and a healthy environment. However, we request withdrawal of this proposal to allow further discussions on the mapping tool and potential consequences. (John Fowler, People's Self-Help Housing)<br><br>While we share the goal of building affordable housing in the places that will serve residents—adults and children—the best, we oppose. Our first concern with this change is that "concerted community revitalization plan" is too vaguely defined. However, we oppose the change more broadly. The data feeding into the ROI are not the right ones for measuring where affordable family housing ought to be placed. In | |

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| | | addition, the maps produce concerning results, blocking out just about all of Richmond and parts of El Cerrito that would make great places for new family housing.<br>An incentive system would be superior to a ban. Providing threshold basis, developer fee, amenity points, or other incentives to building in areas of high opportunity would be a good strategy to direct TCAC's limited dollars towards the areas where tenants will be best served. This is a complex challenge that requires a more nuanced strategy than a simple ban on development in red zones. (Cynthia Parker, BRIDGE Housing)<br><br>We oppose this proposal based on the methodology proposed. Results using the tool seem inconsistent: for example, a view of the City of Oakland shows a smattering of red tracts directly bordering dark green or light green areas of the map. We think there are better tools available, as outlined by NPH in their comment letter, and we believe the proposed changes will have substantial effect on the allocation of credits and requires more thought and consensus than has been developed so far. In addition, the scoring process already screens for location factors including distance to transit, schools, and other amenities. We also feel the criteria for determining if the project would "contribute to a concerted community revitalization plan" is vague and potentially too subjective. The standard needs to be clear enough for applicants to determine if a site will pass muster without asking TCAC each time. Additionally, the standard for what constitutes "a concerted community revitalization plan" may vary when TCAC staff changes. This issue is sufficiently broad and complex that we instead support pursuing a larger policy discussion over the next year. We think there will be substantial unintended consequences if the proposed regulations are implemented. For example, it would be unfortunate to prohibit development of affordable housing to prevent possible displacement in areas that are experiencing gentrification pressures, when market forces rather than a public revitalization effort may be instigating the neighborhood change. (Kevin Knudtson, Community Economics)<br><br>We oppose. The proposal would essentially redline certain areas and cut them off from what is often the only form of new investment and development they see. Furthermore, the ROI designates many tracts as low-opportunity for lacking affordable housing. The opportunity area concept has been extremely controversial in other states because it shrinks available sites and drives up land costs. The opportunity area concept is not needed in California because there are state laws requiring cities to provide affordable housing and restricting their ability to reject projects. Moreover, many cities have imposed inclusionary housing obligations. Encouraging tax credit flow into such projects would create a windfall for master developers who are already required to provide affordable housing as a condition of approval. (David Yarden, AMCAL Multi-Housing)<br><br>While we support encouraging development across a range of opportunity areas, the proposal has two significant problems. First, | |

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| | | TCAC needs to phase in such a dramatic change and create exceptions for projects that already have funding commitments. Second, under the ROI map much of the state is red, including much of the Central Valley. Are we confident these distinctions truly reflect the benefits? We urge further discussion. (Ed Holder, Mercy Housing California)<br><br>While we appreciate the goal, we do not believe prohibiting family projects in areas identified by the ROI is the right approach. There are many problems with the ROI. In many cases, low-opportunity areas are those most at risk of gentrification and displacement. There are other alternatives that should be considered. The proposal goes in the opposite direction of the AHSC program. The site amenities in the 9% competition generally support the goal already. The issue needs more discussion. (Rob Wiener, California Coalition for Rural Housing; Rachel Iskow, Mutual Housing California)<br><br>This is an important and complicated issue that deserves significantly more discussion and analysis, and we do not support adopting this now. We believe that low income families deserve access to good schools, community services and healthy living environments, and we also believe that we cannot stop investing in communities that are currently not being well served. In addition, we suggest considering an alternate index than the ROI. Our review of the maps for the Bay Area shows a number of classifications that defy common sense. For example, the City of East Palo has four different classifications within the City boundaries, including an area of lowest opportunity directly adjacent to an area of highest opportunity. A family project we are planning in Moss Beach on the San Mateo Coast would be disallowed under this proposal. This is a high income community with a median home price well over $1 million, so we do not understand why this is classified as an area of low opportunity.<br>We are also concerned about excluding projects from areas of rapid gentrification, such as the Belle Haven neighborhood of Menlo Park, which is also classified as an area of low opportunity. This neighborhood, home to the Facebook campus, is one of many lower income neighborhoods in the Bay Area experiencing extreme displacement of low income residents, and where we have several projects planned. Any proposals must not further aggravate the displacement that is occurring. (Alice Talcott, MidPen Housing)<br><br>We oppose this change. While we greatly appreciate the issues that the proposed regulation is trying to address, the use of the ROI is very problematic. First, the Index relies on several sets of data with varying levels of availability and viability. Before this Index is used by TCAC, it should be studied more closely for validity. Second, we are concerned that the Index excludes significant geographies that are adjacent to public transit, thereby precluding housing in some of the very areas that provide the most access to job opportunities. In the East Bay alone, there are thirteen BART stations that are in or within one-quarter mile of a "Lowest Opportunity Area." We believe it is incredibly important to build housing in these transit-oriented areas to most effectively link | |

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| | | people to job opportunities. Moreover, we are concerned that this proposal is at odds with the AHSC disadvantaged community policy goal, as well as at odds with the 130% Basis boost for projects in QCTs. Third, the Index is at a scale too small to account for access to opportunity within a larger neighborhood or metropolitan scale. For example, areas near job centers and transit present inherently higher levels of opportunity for residents, but the dynamics of commuting, job location, and housing mobility are obscured at the census tract level presented in the Index. Fourth, we recognize that some areas might qualify under the "community revitalization program" alternative, however we suggest more definition to clarify that plans under BART, MTC, and other organizations, could be used to make some of these communities of concern eligible for waivers.<br>Lastly, Eden believes that it is critical to continue investing in communities that are not being well-served, in addition to building in areas that already provide low-income families with access to good schools, job opportunities, community services, and healthy environments. The development of high-quality, well-managed and service-enhanced affordable housing is a transformative investment for communities. We cannot ignore entire communities, defined as "lowest opportunity" today by a static index, and hinder their access to opportunity in the future. (Andy Madeira, Eden Housing)<br><br>We support building affordable housing in opportunity-rich areas and deconcentrating poverty, but the ROI seems effective at the regional level and not the neighborhood level. TCAC should withdraw the proposal for further study. Moreover, we believe revitalizing low-opportunity areas is important and urge broadening of the revitalization exception. (Peter Armstrong, Wakeland Development) | |
| 74 | 10325(g)(2)(E) | We are supportive of allowing greater flexibility regarding units size but are wary of a race to the bottom scenario which may hurt low-income tenants. (John Fowler, People's Self-Help Housing)<br><br>We support increased flexibility regarding project design and unit sizes, but we are concerned that pressures to lower costs could encourage shrinking unit sizes for the sake of cost efficiency. (Kevin Knudtson, Community Economics)<br><br>Though we respect TCAC's continued effort to control costs we have concerns with this proposal. By lowering the minimum square footages, projects will have difficulty meeting the requirement that "Bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom." TCAC should give consideration to what units should look like so they are adequately sized to accommodate families. (Rob Wiener, California Coalition for Rural Housing) | Staff does not agree that lowering minimum square footage requirements by 50 or 100 square feet will hurt low-income tenants. These minima continue to exceed building codes which protect public health and safety. With respect to the existing language regarding the adequate sizing of bedroom and living areas, current staff is not clear how to interpret or enforce this sentence and, in any event, does not see an inherent conflict.<br><br>No changes. |
| 75 | 10325(g)(2)(G) | | No changes. |

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| 76 | 10325(g)(2)(I) | | No changes. |
| 77 | 10325(g)(3)(B) | | No changes. |
| 78 | 10325(g)(4) | We strongly support this change. Growing data demonstrates a significant correlation between families experiencing homelessness and child welfare involvement. Including this population is consistent with State priorities to reunify families experiencing homelessness with appropriate housing and services. (Sharon Rapport, Corporation for Supportive Housing)<br><br>We support. (Peter Armstrong, Wakeland Development) | No changes. |
| 79 | 10325(g)(4) | | No changes. |
| 80 | 10325(i)(11)(A) | We support this change. (Alice Talcott, MidPen Housing)<br><br>We strongly support the requirement for continued services. Developers receiving additional public funds in the form of tax credits through resyndication should continue to be held to the same public benefit requirements they signed up for when they originally received tax credits to build, including affordable rent and resident services. Providing developers with additional public funds should result in continued public benefit. TCAC's proposed extension of resident services for resyndication projects will support housing stability and safeguard much needed after-school programs; service coordination; educational classes, including financial literacy and computer training; and programs that support seniors to age in place. These services often mean the difference between housing success and failure. The extension of services for virtually all 4% and 9% resyndication projects strengthens in the minds of developers and property managers the idea that service enriched housing is the norm in affordable housing in California. The proposed regulation changes wisely contain waivers in those cases where the economic viability of the project is in question. Thus, the proposed changes provide a mechanism to guard against any potential loss of affordable housing stock that could result from requiring an extension of services at marginal properties seeking tax credits for resyndication. Lastly, it should be noted that the cost of providing high quality resident services, which for non-special needs TCAC properties average between $16,000 to $23,000 per year, is small for developers and properties to absorb given the benefits to housing stability for all residents. (Beth Southorn and Craig Gillett, LifeSteps)<br><br>SCANPH members this this is a reasonable requirement but encourage a broader hardship exemption. It seems highly unlikely that a project exhibiting negative cash flow will be able to apply for resyndication even with a waiver of any services requirement. We propose that TCAC | Staff understands that any additional operating costs may reduce mortgage proceeds but nonetheless continues to believe that tenant services add value and are important to maintain to the extent possible. Staff concurs that the hardship provisions are too narrow and proposes an amendment to allow waivers in two additional hardship situations: 1) when the project has less than $20,000 in cash flow over the three preceding years, as opposed to only negative cash flow; and 2) when the project will have no hard debt and fail to break even in year 15 with service costs.<br><br>The changes as originally proposed allowed for a resyndication applicant to propose similar service amenities. Staff did not envision that the services would have to remain the same. Staff intends to interpret the "similar" requirement by using the point scoring provisions of the regulations in place at the time of the resyndication. If the services previously provided would gain the same score as the proposed services according to the most recent regulations, staff will deem the services similar. Staff proposes amendments to further clarify that any project receiving maximum TCAC or CDLAC points for services has met the requirement. |

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| | | expand the hardship exemption to include any project that can show historical operating expenses that would make providing additional services a financial hardship to the project. (Maira Sanchez, Southern California Association of Non-Profit Housing)<br><br>We support this proposal. It is fair that developers receiving additional public funds through re-syndication should continue to provide the important public benefits associated with resident services. It will support housing stability for all residents of affordable housing and California's overarching public system in support of low-income families and seniors. It will support the affordable housing industry's overall commitment to meaningful resident services and non-profit social service agencies' ability to continue providing the many services they provide that go far beyond those required by CTCAC. Developers and affordable housing projects can afford to sustain the relatively modest cost of resident services, especially when compared with the many important ways resident services support housing stability. (Ken Robertson, Riverside Charitable Corporation)<br><br>While we agree that providing services is a laudable goal, the needs of residents can change over time. The reference to a similar or greater level of services seems open to interpretation. For 9% projects, we would be in favor of this requirement if the new services that garner the full 10 points would be considered "similar level of services." For 4% non-competitive projects, we recommend that this requirement be removed completely. We think that TCAC should be encouraging resyndications to come through the 4% door whenever possible. Applicants cannot always afford to provide new services with the new allocation of tax credits. Requiring services would eat into the funds available to pay debt service and could then render the project infeasible as a 4%, pushing those projects into the 9% system. The proposed hardship language does not resolve this issue. Some properties will have maintained a positive cash flow because they had eliminated or reduced the level of services. If the applicant added back in the services, then the budget would likely show a negative cash flow. Or when services are included in the operating budget, the property might show a positive cash flow for a period of time but the cash flow is trending negatively and eventually goes negative before the end of 15 years. (Richard Mandel, California Housing Partnership Corporation)<br><br>While we are very supportive of providing onsite services to residents, we oppose the new requirement to provide service amenities at resyndication where the current funding program would not require amenities be provided. Our primary concern lies with the "similar or greater" level of services language. We find this to be too subjective and are concerned that this may disadvantage some projects that initially committed to an unsustainable level of services, such as a small onsite daycare center. While we would be supportive of providing some level of services, appropriate for project needs and size, there have been too many changes in the tax credit program over time to determine what | |

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| | | might be "similar." (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We are concerned that resyndications will be required to provide the same level of services as under their previous regulatory agreement, even if the requirement has expired. Projects have fulfilled their original obligation, and there are good arguments that it is appropriate for the new agreement for services to be implemented going forward. (Kevin Knudtson, Community Economics)<br><br>It is our goal to maintain services in our projects. However, needs and a project's ability to pay can change over 15 years, and owners need to be in a position to determine the level of services and balance those desires with other demands. The cash flow may be needed to support debt service for essential property improvements. We seek greater authority to seek any justified waivers or modifications. (Ed Holder, Mercy Housing California)<br><br>While a laudable goal, not all projects can afford to continue to provide services. For 9% applications, we propose deeming projects that receive all 10 points to meet the requirement. For 4% projects, we propose removing the requirement completely to move as many resyndications as possible to this program. Continued services could reduce mortgage proceeds and make projects infeasible. The proposed waiver does not go far enough. The project may have positive cash flow only because it reduced or ended services. Or cash flow may be trending negatively, and it may not be able to stay positive through year 15. (Rob Wiener, California Coalition for Rural Housing)<br><br>We oppose this change. Many resyndication projects do not have the financial viability to provide the same level of services as may have been originally required. Restricted rents trended over fifteen, twenty, or more years since the original placed in service date do not keep up with the growth in operating expenses. When projects are resyndicated, the increment between operating expenses and rents is usually much tighter and trends downward much faster than when they were originally placed-in-service. The current proposed language ties a discretionary reduction in services to negative cash flow or other demonstrable severe hardship. We recommend a more nuanced evaluation that takes into consideration the supportability and trending of a 20-year term mortgage. The current proposal would potentially wipe out a significant amount of tax credit equity that could be leveraged by the larger mortgage that is supportable if we have a smaller services budget funded as an operating expense. (Andy Madeira, Eden Housing) | |
| 81 | 10326(g)(5)<br><br>Development team experience | | No changes. |

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| 82 | 10326(g)(5)<br><br>Team contracts | I wholeheartedly support removing “busy work” from the application. (William Leach, Kingdom Development) | No changes. |
| 83 | 10326(g)(7) | We support this change. (Alice Talcott, MidPen Housing)<br><br>I am opposed the current proposal but am supportive if the threshold amount is less than or equal to the minimum amount of rehabilitation required (i.e., $15,000 per unit). (William Leach, Kingdom Development)<br><br>The proposed rehab threshold will advantage yield buyers who are willing to pay more to purchase a property because they will do less rehabilitation. Unless you offset the potential gain to the seller of selling to a yield buyer, you will see very little rehabilitation. Owners will not sell assets to conform to the $20,000 per unit requirement. (Justin Solomon)<br><br>The members of SCANPH are strongly opposed to this proposal. While increasing the threshold to $20,000 is reasonable for rehabilitation projects, excluding a certain subset of costs from that limit is not. The proposal assumes that buildings are designed perfectly from the beginning and don't receive worthwhile benefit from upgrades. This also discounts very real benefits that tenants receive from improvements beyond existing facilities. Excluding improvements from the minimum hard cost requirement could potentially exclude costs associated with TCAC's own requirements, such as energy efficiency improvements and accessibility improvements, effectively increasing the per unit hard cost minimum well beyond $20,000. The proposal also creates a documentation burden by requiring an entirely new cost framework to track these costs separately. (Maira Sanchez, Southern California Association of Non-Profit Housing; Ben Rosen, Skid Row Housing Trust)<br><br>We would be supportive of increasing the existing rehabilitation threshold from $15,000 to $20,000 per unit. (Ben Rosen, Skid Row Housing Trust)<br><br>This is an unneeded burden. Post compliance period properties will need capital improvements given their position in a project life cycle. (Michael Hudson, Dominium)<br><br>We believe TCAC should not change this section at all. We believe TCAC should allow owners to take advantage of today’s historic low interest rates, high tax credit prices, and abundance of lenders and investors to rehabilitate their existing assets while the marketplace is flush with financing and while projects are feasible as a result said financial conditions. Responsible owners with projects 15 years old and beyond have spent the vast majority if not all of their replacement | Staff continues to believe that projects should have a minimum amount of rehabilitation needs before resyndicating.<br><br>The large majority of resyndication projects has substantial rehabilitation needs and will not be affected by the proposed rule change. In other cases, owners may be able to wait to resyndicate until needs are greater. To the extent that some projects end up in the hands of yield buyers, as they do now, staff is not convinced that these projects will remain in the hands of yield buyers for the remaining term of the regulatory agreement, which is often 40 years. Staff expects that most of these projects will also resyndicate in some later market cycle when yield buyers find greater returns elsewhere. Nonetheless, in order to lessen the impact on affordable buyers, staff proposes an amendment to lower the amount of need that the CNA must demonstrate over the next seven years from $20,000 per unit to $15,000 per unit. Staff does not agree with the exemptions suggested by comments that would render the requirement largely irrelevant. Staff continues to believe that this rule is appropriate for all resyndication projects.<br><br>Under the proposed change, TCAC would still continue to fund upgrades to existing properties. Staff simply prefers to wait on such upgrades until such time as the property also needs a minimum amount of basic maintenance.<br><br>Staff disagrees that the proposed change creates a documentation burden. Except for the fact that the CNA will need to include a pre-rehabilitation reserve study as proposed in Section 10322(h)(26)(B), which is only one additional page in the CNA, all other application documents will remain the same. Staff will review the pre-rehabilitation reserve study to calculate the needs over the first seven years on a per unit basis. All rehabilitation costs, including upgrades, are still eligible for basis. The proposed change is simply a threshold requirement for applying. |

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| | | reserves, have increasing annual expenses, have had several years with very little or no rent increases, weathered increased utility allowances, have permanent loans with 8% interest rates (done 15 or more years ago), and have investors who want out of the projects but have no way to finance their exit. We can secure lower rate financing and tax credit equity to invest in the project's long term operational success, remove the existing investor partner and have them help finance it, while at the same time repair and replace what is needed to extend the useful life of the project. When the economy turns, fewer projects will be feasible and we will miss this unique market opportunity to invest in each project's long-term operational success. (Thomas Erickson, Highridge Costa Housing Partners)<br><br>We urge withdrawal of this proposal. It will create challenges for developers who wish to hold on to projects at year 15, as resyndication is often the only way to maintain control when a limited partner forces sale of the project. It does not recognize the energy efficiency and accessibility expenditures that TCAC requires. It does not recognize the value to residents of improved energy efficiency and amenities and stable management, nor the value of underwriting affordable housing developers so they can continue to develop new affordable housing. It could also result in reduced upkeep of properties so they can meet the requirement and a reduction in 4% production. (Geoffrey Brown, USA Properties)<br><br>We oppose this item because it is overly complicated in that some rehabilitation costs qualify and other do not. In addition, it does not consider the benefits to tenants of energy efficiency improvements and improved project amenities nor recognize the fact that the investor may force the sale of the project if the general partner cannot resyndicate. (Pat Sabelhaus, California Council for Affordable Housing)<br><br>We oppose this change because it would have the impact of allowing a property to deteriorate to the point where major rehabilitation is required. Owners should have the ability to resyndicate a property and make improvements such as energy and ADA upgrades that could significantly improve operational efficiencies and elevate the property to current standards. These improvements should count towards any rehabilitation threshold. (James Silverwood, Affirmed Housing)<br><br>The proposed change would create two categories of rehab costs for resyndication projects. The exclusion of certain costs overlooks value that residents recognize from upgrades to the project. In certain situations, it would appear that the costs that excluded from the proposed threshold would be required by TCAC or other relevant building codes. Furthermore, the implementation of two separate cost categories will result in inefficiencies and additional administrative burden. Current documentation and record keeping practices generally do not distinguish between the two categories as proposed. (Kevin Wilson and Stacey Stewart, Low-Income Housing Tax Credit Working Group) | |

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| | | We strongly oppose this new requirement. We support the general objective of limiting use of the program to projects that genuinely need the capital investment. However, this is a cumbersome requirement that creates more work for creative third-party consultants – in this case PNA preparers – without likely creating a meaningful difference. There are also very good publicly beneficial reasons to accomplish resyndication other than rehabilitation, such as repaying public soft debt to be recycled into more affordable housing investment. We are further concerned that the interplay of the requirement for sellers to fund immediate repairs and the sizing of mid-term repairs (three to seven years) will place acquisitions of these preservation projects in a challenging squeeze. Identifying $20,000 of year three through seven rehab requirements at acquisition will result in replacement reserve requirements that essentially make acquisitions for future resyndication impossible to finance with current bridge acquisition products available in the market. This requirement is a dangerous step in the wrong direction that will result in the loss of critical assets to short-term buyers who elect not to reinvest in the properties while breaking the ten-year hold requirement and preventing responsible recapitalization and reinvestment. If the Committee chooses to proceed with this addition, we recommend the following additional exemptions: (i) Automatically exempt all properties with an original construction date over 35 years ago. (ii) Automatically exempt all transactions where the resyndication results in the payback of public debt that will be recycled into new affordable housing opportunities. (iii) Automatically exempt all transactions where proceeds from the sale will flow to a nonprofit organization with a public purpose to provide affordable housing. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>While we support TCAC's efforts to favor new construction over rehabilitation in the 9% competition, we believe this change is an unnecessary change to accomplish that goal. (John Fowler, People's Self-Help Housing)<br><br>We support this change and share the concern that resyndications be used primarily where there are real capital needs. Whenever we do a resyndication, we make sure the project needs enough work to warrant one. (Cynthia Parker, BRIDGE Housing) | |
| 84 | 10326(g)(8) | We strongly support the requirement for continued services. Developers receiving additional public funds in the form of tax credits through resyndication should continue to be held to the same public benefit requirements they signed up for when they originally received tax credits to build, including affordable rent and resident services. Providing developers with additional public funds should result in continued public benefit. TCAC's proposed extension of resident services for resyndication projects will support housing stability and safeguard much needed after-school programs; service coordination; educational classes, including financial literacy and computer training; and programs that support seniors to age in place. These services often mean the difference between housing success and failure. The extension of services for virtually all 4% and 9% resyndication projects strengthens in the minds | Staff understands that any additional operating costs may reduce mortgage proceeds and the possible disadvantage for affordable buyers but nonetheless continues to believe that tenant services add value and are important to maintain. Staff concurs, however, that the hardship provisions are too narrow and proposes an amendment to allow waivers in two additional hardship situations: 1) when the project has less than $20,000 in cash flow over the three preceding years, as opposed to only negative cash flow; and 2) when the project will have no hard debt and fail to break even in year 15 with service costs.<br><br>The changes as originally proposed allowed for a resyndication applicant to propose similar service amenities. Staff did not |

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| | | of developers and property managers the idea that service enriched housing is the norm in affordable housing in California. The proposed regulation changes wisely contain waivers in those cases where the economic viability of the project is in question. Thus, the proposed changes provide a mechanism to guard against any potential loss of affordable housing stock that could result from requiring an extension of services at marginal properties seeking tax credits for resyndication. Lastly, it should be noted that the cost of providing high quality resident services, which for non-special needs TCAC properties average between $16,000 to $23,000 per year, is small for developers and properties to absorb given the benefits to housing stability for all residents. (Beth Southorn and Craig Gillett, LifeSteps)<br><br>SCANPH members this this is a reasonable requirement but encourage a broader hardship exemption. It seems highly unlikely that a project exhibiting negative cash flow will be able to apply for resyndication even with a waiver of any services requirement. We propose that TCAC expand the hardship exemption to include any project that can show historical operating expenses that would make providing additional services a financial hardship to the project. (Maira Sanchez, Southern California Association of Non-Profit Housing)<br><br>This is an added expense that could very well make deals infeasible. If additional services are needed, that should be determined on a case by case basis. Services are often outdated, as they were prescribed at least 15 years prior. (Michael Hudson, Dominium)<br><br>This proposal should be withdrawn as it significantly disadvantages resyndication over "yield" buyers by as much as $250,000-500,000. (Geoffrey Brown, USA Properties)<br><br>We oppose this change as it is not fair to retroactively impose restrictions. Additionally, there are instances where sponsors are able to reduce service expenses to industry standards to increase permanent debt, which allows a developer to rehabilitate the property. (James Silverwood, Affirmed Housing)<br><br>We support this proposal. It is fair that developers receiving additional public funds through re-syndication should continue to provide the important public benefits associated with resident services. It will support housing stability for all residents of affordable housing and California's overarching public system in support of low-income families and seniors. It will support the affordable housing industry's overall commitment to meaningful resident services and non-profit social service agencies' ability to continue providing the many services they provide that go far beyond those required by CTCAC. Developers and affordable housing projects can afford to sustain the relatively modest cost of resident services, especially when compared with the many important ways resident services support housing stability. (Ken Robertson, Riverside Charitable Corporation) | envision that the services would have to remain the same. Staff intends to interpret the "similar" requirement by using the point scoring provisions of the regulations in place at the time of the resyndication. If the services previously provided would gain the same score as the proposed services according to the most recent regulations, staff will deem the services similar. Staff proposes amendments to further clarify that any project receiving maximum TCAC or CDLAC points for services has met the requirement.<br><br>Staff does not consider this requirement retroactive as it only applies to projects that seek a new reservation of tax credits. |

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| | | While we are very supportive of providing onsite services to residents, we oppose the new requirement to provide service amenities at resyndication where the current funding program would not require amenities be provided. Our primary concern lies with the "similar or greater" level of services language. We find this to be too subjective and are concerned that this may disadvantage some projects that initially committed to an unsustainable level of services, such as a small onsite daycare center. While we would be supportive of providing some level of services, appropriate for project needs and size, there have been too many changes in the tax credit program over time to determine what might be "similar." (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We are concerned that resyndications will be required to provide the same level of services as under their previous regulatory agreement, even if the requirement has expired. Projects have fulfilled their original obligation, and there are good arguments that it is appropriate for the new agreement for services to be implemented going forward. (Kevin Knudtson, Community Economics)<br><br>It is our goal to maintain services in our projects. However, needs and a project's ability to pay can change over 15 years, and owners need to be in a position to determine the level of services and balance those desires with other demands. The cash flow may be needed to support debt service for essential property improvements. We seek greater authority to seek any justified waivers or modifications. (Ed Holder, Mercy Housing California)<br><br>We agree that services should be continued where it is financially feasible but that the proposed language for exceptions in the event of infeasibility is insufficient. We are struggling with how to define a better exception that could readily be applied by TCAC. Because providing services means supporting less debt, it is difficult to define when that is infeasible since sometimes less debt may or may not make a project infeasible. Certainly, one such exception should be when the project is not supporting debt and still cannot maintain positive cash flow over the 15 year cash flow period. (Alice Talcott, MidPen Housing)<br><br>We oppose this change. Many resyndication projects do not have the financial viability to provide the same level of services as may have been originally required. Restricted rents trended over fifteen, twenty, or more years since the original placed in service date do not keep up with the growth in operating expenses. When projects are resyndicated, the increment between operating expenses and rents is usually much tighter and trends downward much faster than when they were originally placed-in-service. The current proposed language ties a discretionary reduction in services to negative cash flow or other demonstrable severe hardship. We recommend a more nuanced evaluation that takes into consideration the supportability and trending of a 20-year term mortgage. The current proposal would potentially wipe out a significant amount of tax credit equity that could be leveraged by the larger mortgage that is supportable | |

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| | | if we have a smaller services budget funded as an operating expense. (Andy Madeira, Eden Housing) | |
| 85 | 10326(j)(5) | | No changes. |
| 86 | 10327(a) | | Pursuant to the comments received for Section 10322(e), staff proposes a further amendment providing that initial application errors resulting in a shortage of sources of $50,000 or less shall be deemed covered by the contingency line item. |
| 87 | 10327(c)(2) | I support the increased developer fee and the incentive to develop cost effective projects but also recommend that you remove the $1.4 million limit on eligible basis as it's an antiquated and arbitrary rule that skews perceptions about reasonable developer fees and causes disruption in the industry. (William Leach, Kingdom Development)<br><br>SCANPH supports the proposal to increase the maximum developer fee in cost to $2.2 million and recognizes the importance of seeking tools to incentivize developers to achieve greater cost efficiency. However, the proposed mechanism of adjusting developer limits based on the project's' high-cost test may have unintended negative consequences. Project costs reflect many cost factors which are beyond the control of developers and can vary significantly across a county. Developers seeking to secure higher developer fees may choose to achieve short-term cost savings by using less durable or energy efficient materials, decreasing tenant amenities, or taking other approaches which result in higher long-term operating costs. Developers would be further dissuaded from pursuing smaller projects, which, by their size, are now not eligible for $2 million maximum, and yet still provide substantial public benefits. We urge TCAC to seek instead more cost efficiencies through reviewing and reducing costs, which may stem from TCAC requirements or competitive guidelines. (Maira Sanchez, Southern California Association of Non-Profit Housing; Tara Barauskas, Community Corp. of Santa Monica)<br><br>We do not support reducing the developer fee for high-cost projects or re-setting the fee at placed in service. Both provisions disadvantage high-cost and high-opportunity areas, as well as smaller special needs projects. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>We support the long anticipated increase in maximum developer fee on 9% new construction developments but object to TCAC's creative method of seeking cost efficiencies. As indicated in the State's high cost study, there are myriad factors that are driving up the cost of affordable housing, many of which are beyond the control of the development community. However noble, the thought that these costs can be effectively controlled by artificial carrots and sticks on cash developer | Staff continues to believe that creating incentives for cost reduction is a worthwhile policy. Staff acknowledges that many costs are beyond a developer's control but believes that enough costs are within a developer's control that incentives are appropriate and will have an impact on costs. Staff is not convinced that developers will be incentivized to cut corners on quality, because developers who choose up-front cost savings that increase operating costs will see less cash flow and lower sale prices down the road. With respect to the comment that the change may disincentivize developers from taking on more expensive projects, it is staff's experience that developers go where the projects are. Moreover, if some small projects are not funded, TCAC has a surplus of others applications that can be funded and which may increase the total number of units.<br><br>Staff acknowledges that the proposal may disincentize projects in high-opportunity areas where costs tend to be higher. Again, it is staff's experience that developers go where the projects are. In addition, staff has proposed a number of changes to the threshold basis limit methodology that will offset some or all of this disincentive, including a 10% increase for projects in high-opportunity areas and the administrative changes described in the responses to Section 10325(d).<br><br>Staff offered the increase in the developer fee limit to $2.2 million only in conjunction with the cost adjustment factor. Staff opposes raising the fee limit by itself at this time. Demand for 9% credits remains strong with the $2 million limit currently in place. Staff also opposes applying the cost adjustor only in a manner that increases fees. This exempts the highest cost projects from any incentive to control costs. In addition, staff opposes setting a floor on reductions in the developer fee. Staff believes all projects should have incentives to reduce costs further, and the reduction is already effectively limited by the fact that projects are not allowed to have a cost ratio of greater than 140% at placed in service. |

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| | | fee is flawed, in our opinion. Further, we believe it may lead to unintended consequences. (Brian D'Andrea, Century Housing Corporation)<br><br>We strongly support this change in that it rewards developers who are cost conscious and achieve cost efficiency, which ultimately increases the number of units produced.  The proposal protects developers in extremely high cost areas or where local requirements are excessive by placing a floor below which the development fee may not fall.  Project quality will be maintained as a result of TCAC minimum construction standards, energy conservation requirements, local building codes, and investor and lender due diligence. (Pat Sabelhaus, California Council for Affordable Housing)<br><br>We oppose this change.  We tested several 9% transactions and found that in urban and suburban areas the allowable developer fee would be reduced anywhere from10-30%, which creates a hardship for developers.  This is contradictory to TCAC's policy of the need of more affordable housing in high-opportunity areas as developers will be motivated to develop in less expensive areas.  (James Silverwood, Affirmed Housing)<br><br>We support the increase in the developer fee limit but oppose the link to the project's high-cost ratio.  The fee increase is warranted for the time, complexity, and risk associated with these deals.  More often than not, costs are out of our control, making the reduced fees inappropriate and misaligned.  Developer fees are already impacted by cost overruns.  We should not have to worry about recalculating our fee downward when costs go up, especially if we can secure additional funding elsewhere.  This will disincentivize development in high-cost urban areas.  Lastly, the fee can only go down at placed in service which is inequitable.  (Kasey Burke, Meta Housing Corporation)<br><br>We support the increase in the fee cap and the concept of providing incentives to developers to reduce costs, but we believe that the numerator of the adjustment factor should be requested eligible basis rather than total eligible basis.  The proposal will doubly penalize projects in San Francisco as they are often above the threshold basis limits and will not qualify for the increase for high-opportunity areas.  The language should clarify that the adjustment should be recalculated at placed in service. (Bill Witte and Frank Cardone, Related California)<br><br>We understand the need to implement cost containment measures and can support the "carrot" of increased developer fee for more cost-efficient projects. However, we generally oppose the reduction in developer fee for higher cost projects. We are doubtful this change will lead to an overall reduction in development costs and believe it could create a financial incentive to use cheaper materials creating greater long-term operating costs and need for resyndication.  There is no evidence that affordable developers would suddenly be able to control external factors such as materials and labor costs by simply providing a modest financial incentive in the developer fee calculation and, in fact, this | Staff acknowledges the one comment stating that smaller projects using the percentage based fee limit rather than the $2.2 million fee limit could actually have their developer fee reduced at placed in service as a result of cost reductions during construction.  The higher percentage developer fee allowed as a result of the cost savings would apply to a smaller amount of basis, offsetting the incentive.  Nonetheless, staff does not support fixing the developer fee at application because that would give applicants an incentive to highball costs at application to lock in a higher fee than would otherwise be allowed.  Whereas most new construction projects have developer fees that fall under the dollar amount cap, staff believes that this scenario will arise rarely.<br><br>Staff does not support changing the $1.4 million limit on developer fee in basis at this time.  To the extent that most projects currently walk away from basis, such a change would not benefit projects economically.  Moreover, staff does not want to affect developer fee limits of other public agencies that may link to TCAC's limits.<br><br>Staff does not agree that the cost formula should be based on requested basis, as opposed to eligible basis.  The cost formula is already well established and accepted in the TCAC regulations, and requested basis has little relation to costs.<br><br>It is incorrect that the fee will not be adjusted upward at placed in service.  The proposed change provides for an adjustment in both directions.  Staff sees no reason why recalculating the fee at placed in service is infeasible.  On the contrary, it is especially important for developers to have incentives to control costs during construction.  Again, fixing the fee at reservation would give developers an incentive to highball costs upfront.<br><br>No changes. |

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| | | approach could actually penalize those developers taking on the most challenging and deeply income-targeted projects. (Ray Pearl, California Housing Consortium)<br><br>We understand the need to implement cost containment measures and can support the “carrot” of increased developer fee for more cost-efficient projects. However, we generally oppose the reduction in developer fee for higher cost projects. We are doubtful this change will lead to an overall reduction in development costs and believe it could create a financial incentive to use cheaper materials creating greater long-term operating costs and need for resyndication. There is no evidence that affordable developers would suddenly be able to control external factors such as materials and labor costs by simply providing a modest financial incentive in the developer fee calculation and, in fact, this approach could actually penalize those developers taking on the most challenging and deeply income-targeted projects. If adopted, we encourage that there be a floor on the developer fee of the lesser of 15% of basis or $1.4 million, otherwise allowed developer fees in high cost areas could fall below the currently allowed $1.4 million. Also, it is not feasible to have the developer fee float and be recalculated at placed in service. Changes in costs from the time of application to placed in service are inevitable due to shifts in material and labor costs, last-minute design changes, or unforeseen site challenges, particularly for new construction. Projects are already constrained to 140% of TBLs at the time of placed in service. We recommend that the recalculation provision be eliminated. (Amie Fishman, Non-Profit Housing Association of Northern California; Dan Wu, Charities Housing)<br><br>We are very supportive of the increase in the developer fee limit because of increased complexity and the risk of winning a 9% competition. We oppose the high cost adjustment as it unfairly penalizes developers for unforeseen cost increases. (Vicky Ramirez, Jamboree Housing Corporation)<br><br>We support the increase in the developer fee limit which recognizes staff time and risks, but we oppose the cost adjustment. All of our pipeline projects would be subject to reduction in developer fee. The proposal will incentivize cutting hard costs; disincentivize urban infill, TOD, and environmental sustainability; weaken the creditworthiness or financial stability of affordable housing developers; and undermine fairness because many costs are beyond a developer’s control. (Sarah Letts, Hollywood Community Housing Corporation)<br><br>We support the increase to the base developer fee for 9% new construction projects, and also acknowledge the importance of providing incentives to control costs. However, this revision as currently drafted is too punitive.<br>First, it will disproportionately affect developers in high-cost and high-opportunity areas, as well as projects with small unit sizes, which primarily serve Special Needs populations. A potential $1,540,000 fee for a developer near the 130% cost limit is significantly lower than the | |

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| | | current $2 million limit. We support the provision to incentivize cost savings through upward adjustments to the developer fee, but we do not support reductions from the base limit for high-cost properties. Second, it is not feasible to have the developer fee float and be recalculated at placed in service. Changes in costs from the time of application to placed in service are inevitable due to shifts in material and labor costs, last-minute design changes, or unforeseen site challenges, particularly for new construction. Projects are already constrained to 140% of TBLs at the time of placed in service. We recommend that the recalculation provision be eliminated. (Richard Mandel, California Housing Partnership Corporation)<br><br>We support the increase in the fee limit but not the fee adjuster based on project cost. There are too many variables outside a developer's control to consider development cost. Developers are already incentivized to reduce costs by the competitive tax credit process at large. (John Fowler, People's Self-Help Housing)<br><br>We are generally supportive of this approach but further suggest increasing the amount of developer fee allowed in basis to at least $1.8 million, which will also allow for more credit equity to be generated for projects. (Cynthia Parker, BRIDGE Housing)<br><br>While we understand TCAC's concerns about the costs of developing affordable housing, we do not support the revision to developer fee limits based on a project's cost efficiency. Our experience is that project costs are not increasing simply because developers are under-motivated. Costs are increasing due to many factors, including the State economy and the many requirements places on projects by TCAC and other funders. TCAC is proposing to permit a higher fee, not a higher fee in basis. Most nonprofit developers rarely have the luxury of getting a higher fee than the $1.4MM capped in basis due to the scarcity of public funding and because many local public funders defer to TCAC's basis limit as their total limit on fees. As a result, TCAC's proposed incentive could have little impact to most nonprofit developers. It will also incentivize investment in cheaper materials. Additionally the State's recent cost study similarly did not come to any conclusions which would tie to this strategy. Particularly because we believe the methodology for determining "high cost" areas is flawed, we believe that the change to developer fee could disadvantage projects in high-cost areas. The tiebreaker scoring already incorporates cost efficiency, and there are already incentives for projects to reduce costs in order to be competitive for 9% credits. In addition, the higher fee will increase the costs for lower-costs projects, which is counterproductive to the goal. If this revision is adopted, we propose a floor on the developer fee of the lesser of 15% of basis or $1.4 million so that developer fees in high cost areas do not fall below the currently allowed $1.4 million. In addition, we do not think it is feasible for the developer fee to be recalculated at placed in service. Cost changes are inevitable and projects are already constrained to 140% of the threshold basis limits at the time of placed in service. (Kevin Knudtson, Community Economics) | |

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| | | We support increasing the developer fee limit. In constant dollars, it still remains far below the original ceiling, and we urge automatic adjustments. We have no objection to the cost efficiency adjustment but note that the result appears de minimis. In a $40 million project, a $1 million reduction in costs would result in $65,000 more developer fee. Most developers will be hard pressed to take the risk of trimming $1 million out of the budget for that level of fee increase. For projects below the fee limit, a reduction in costs during construction will result in a lower fee due to the 15% limit. Moreover, if a project does not have excess basis, there will be a reduction in credits and equity. Accordingly, we do not see how this incentivizes cost savings. It may actually disincentivize it. (David Yarden, AMCAL Multi-Housing)<br><br>We support linking financial incentive to cost in general, but cannot support this link based on a flawed threshold basis limit calculation. A project can be designed will all cost-reducing strategies and still push up against high cost thresholds. It is our goal to maintain services in our projects. (Ed Holder, Mercy Housing California)<br><br>We do not object to this proposal, but are dubious that allowing higher costs in the form of increased developer fees will lead to overall lower development costs. We suggest that there be a $1.4 million floor (to the extent 15% of basis is not lower) until there is evidence that this is working to decrease costs. (Alice Talcott, MidPen Housing)<br><br>We support the incentive-based approach to cost containment, but we are concerned by the proposed reduction in developer fee for high cost projects. We do not think this change will result in an overall reduction in development costs, as developers often do not have control over factors such as labor and material costs. In order to prevent the developer fee from falling significantly below the currently allowed level, we suggest that TCAC create a floor of the lesser of 15% of basis or $1.4 million. (Andy Madeira, Eden Housing) | |
| 88 | 10327(c)(5) | | Staff proposes an additional change to delete an archaic sentence that is in conflict with Section 10322(j) and current practice with respect to threshold basis limits. |
| 89 | 10327(c)(5)(A) | | Staff proposes a further correction to terms used in this section. |

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| 90 | 10327(c)(5)(B)(1) and (2) | While we support the intent of rewarding or incentivizing owners who install solar PV that offsets tenant loads, we believe this addition is premature, given that there is currently is minimal funding available to pay for solar PV that offset tenant loads. Further, it is difficult to determine whether TCAC's proposal of 50% is appropriate and whether the added costs associated with tenant installation can be supported by the added threshold basis. (Richard Mandel, California Housing Partnership Corporation)<br><br>We support the proposal to apply the threshold basis limit for renewables if a specific renewable percent is supplied to offset a tenant's load. A tenant load offset standard makes good sense and it is time to switch the criteria for solar from a "whole project" to "tenant use" metric.<br>We recommend TCAC evaluate the threshold of 50% offset of tenant loads for feasibility to ensure it is an achievable target. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | According to TCAC's sustainability consultant, a 50% offset of tenant loads is achievable. As a result, staff continues to believe that a 50% threshold is appropriate for a basis limit increase. |
| 91 | 10327(c)(5)(B)(3) | Because the 2016 building code is much more stringent, the 15% threshold is highly unachievable and the added cost won't be worth the extra basis limit increase. The threshold should be 5%. (Kasey Burke, Meta Housing Corporation)<br><br>We oppose this change given TCAC's focus on cost containment. It is contradictory to require affordable housing developers to spend more money on greening projects and also meet high-cost standards. If all costs related to energy efficiency were taken out of the high-cost test, it would be easier to implement. (Candice Gonzalez, Palo Alto Housing)<br><br>We oppose this change, particularly given TCAC's focus on cost containment. California already has the highest energy efficiency standards in the nation embedded in the 2016 standards. Meeting these standards should be sufficient as a threshold, and additional points should not be granted to projects that surpass these requirements. Building above these standards, even if possible, not only imposes increased costs but reaches a point of diminishing returns and fails a cost-benefit analysis. (Ray Pearl, California Housing Consortium; Amie Fishman, Non-Profit Housing Association of Northern California; Marianne Lim, Burbank Housing Development Corporation; Andy Madeira, Eden Housing)<br><br>The 2016 energy standard updates are significant. If we are to further reduce the heat loss by another 15% from the 2016 standard, we potentially need to implement measures such as triple glazing or argon gas filled double glazing for windows and thicker studs or double studs walls to accommodate thicker insulation. Additional costs associated with these mitigating measures are increasing far faster than the allowable 4% increase in basis. We suggest lowering the 15% thresholds as the energy standards are increased with each code revision. (Dan Wu, Charities Housing) | While staff has proposed lowering the efficiency thresholds for points to reflect the more stringent baseline building code, staff believes it is appropriate to maintain the 15% threshold above code for threshold basis limit increases. As a general rule, the thresholds for basis limit increases related to sustainability are higher than the thresholds for points. The idea is that applicants should receive basis limit increases only for additional effort beyond what is effectively required for maximum points. Currently, a project improving energy efficiency by 15% over code gets both maximum points and a basis limit increase. Creating differential thresholds for energy efficiency is in line with other basis limit increases.<br><br>Similarly to the point section for energy efficiency, staff proposes an amendment to clarify that projects for which the local building department has determined that building permit applications submitted on or before December 31, 2016 are complete should continue to be held to the 2013 standards. This will avoid costly redesigns. |

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| | | The stringent energy efficiency requirements of the new 2016 Building Code should be considered and suggest that the % to exceed Title 24 in order to increase the threshold basis limit be reduced. We suggest 10%. (Alice Talcott, MidPen Housing) | |
| 92 | 10327(c)(5)(B)(5) | Tying the offset to a fixed number of gallons will disadvantage smaller projects or projects with less water intensive uses. We suggest a change to a bedroom size metric. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>20,000 gallons is an arbitrary number and does not account for variances in project size and design. The standard should be proportional. (Kasey Burke, Meta Housing Corporation)<br><br>Irrigation water use is largely dependent upon the local climate and the amount of landscaped areas. This means that areas of the State that receive lesser annual rainfall will be able to achieve this goal far easier than other parts of the State assuming projects have the same amount of landscaped areas. While the offset of potable water use of at least 10,000 gallons annually is a very achievable benchmark, we suggest TCAC considering varying the minimum requirement based on local climate. (Dan Wu, Charities Housing)<br><br>We support with modification. We propose two changes: (i) eliminate the words "only with" to allow for supplemental potable water use for more water-intensive plant establishment phases and to cover intermittent dry season shortages (recognizing that some jurisdictions do not readily allow reclaimed/greywater systems); and, (ii) sizing the numeric requirement based on the building's size (number of units) and landscaped area, recognizing that smaller buildings and buildings with minimal landscaping may be more water efficient, and a different sizing standard may be appropriate. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We support with modification. The 10,000 and 20,000 gallon figures seem arbitrary. While low-density projects with much landscaping to water could probably meet this easily, what about high-density projects that have minimal landscaping? Their reclaimed water, greywater, or rainwater system may still be providing a good benefit, but not to the tune of 10,000 or 20,000 gallons. A percentage reduction requirement may be a fairer way to structure this, or a lower amount of gallons given the difficulty certain projects will face in meeting these amounts. This could work on an interim basis until more projects have these systems in place and we can collect more information about how much water reduction is feasible. (Cynthia Parker, BRIDGE Housing)<br><br>We suggest that any gallon requirements be scaled for project size, project type, and population served. In addition, we suggest that some kind of baseline or industry standard be used for the gallon offset. (Alice Talcott, MidPen Housing) | Because the originally proposed threshold was based on the absolute amount of potable water replaced rather than a percentage of expected potable water usage, staff does not agree that climatic differences are relevant. Nonetheless, staff is convinced that we should give additional consideration to projects that use non-potable sources for all of their irrigation needs and to smaller projects. Staff proposes amendments to provide the basis limit increase to projects that irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens) or that irrigate with reclaimed water, greywater, or rainwater in an amount that annually equals or exceeds 20,000 gallons or 300 gallons per unit, whichever is less. Unlike the point section, staff does not propose a threshold basis increase for projects that do not use irrigation at all because there are no additional costs associated with this option. |

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| | | We are concerned that this change hurts projects that do not require at least 20,000 gallon of irrigation, such as smaller projects, urban infill projects with small landscaped areas, and projects with drought-tolerant landscaping. Instead, we suggest that any gallon requirement be scaled based on project size, project type, and population served. (Andy Madeira, Eden Housing)<br><br>We recommend setting the threshold at 75% offset and that the system offset a minimum of 10,000 gallons annually for outdoor water use. The minimum threshold of 10,000 gallons ensures that there is a reasonable impact from the intervention. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition | |
| 93 | 10327(c)(5)(B)<br><br>Certification | We commend TCAC on expanding the options for green building certifications to include Passive House and Living Building Challenge. Owners will welcome this flexibility to demonstrate their sustainability efforts. (Richard Mandel, California Housing Partnership Corporation) | In conformance with the points sections, staff proposes an amendment to include NGBS Green Verifiers in the list of approved verifiers. |
| 94 | 10327(c)(5)(B)<br><br>Energy consumption report | How should we calculate 50% of tenant load in new construction where we don't have data on tenant energy usage? The regulations need clarity on that. (Felix AuYeung, MidPen Housing)<br><br>We recommend that TCAC pursue a comprehensive approach to reducing the administrative burden, instead of eliminating individual forms that may serve an important function. Many of the submission requirements up for elimination this year are either critical to the success of the project, meeting TCAC's goals, or necessary to demonstrate compliance with the regulations. Specifically, we urge TCAC to maintain the requirement for the submission of the Title 24 compliance documentation. TCAC proposes to rely on the Workbook for all information regarding the energy efficiency performance. While we appreciate the intent to reduce the administrative impact, reducing documentation does not necessarily add to a more successful project and does not address the overall submission process. The lack of documentation for performance does not provide TCAC with defensible documentation for a project. The CEC-recognized documentation provides TCAC with back-up documentation. (Amy Dryden, Andrew Brooks, Maria Stamas, Jim Grow, Kent Qian, Energy Efficiency for All Coalition) | The percentage offset of the tenant load is calculated using the CUAC calculator (though it is not necessary to conduct a TCAC quality control review as required for use of the CUAC for actual utility allowances). Staff proposes an amendment to clarify this in a way that mirrors the verification requirement for points associated with PV offset of tenant loads from Section 10325(c)(6)(G) 6. (i).<br><br>Staff believes that the Sustainable Building Methods workbook signed by a qualified energy analyst is sufficient to document compliance with energy efficiency requirements. Moreover, staff has only been reviewing the workbook at placed in service and believes that we should not be requiring documentation we do not review. In the event further documentation is needed, staff is confident that applicants will provide it in order to obtain the 8609 tax forms. |
| 95 | 10327(c)(5)(B)<br><br>Water verification | We suggest adding the project's landscape architect as a person who is able to certify the offset. (Dan Wu, Charities Housing) | Staff concurs that a landscape architect is a qualified verifier and proposes an amendment accordingly.<br><br>Staff proposes an additional amendment to conform the verification language with the revised standards in Section 10327(c)(5)(B)(5). |
| 96 | 10327(c)(5)(B)<br><br>Community gardens | | No changes. |

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| 97 | 10327(c)(5)(D) | | No changes. |
| 98 | 10327(c)(5)(F) | While we underscore that the ROI does not purport to define or identify high-cost areas as you recognize, we support this proposal because it would provide a basis boost to developing affordable housing that is consistent with the Center's goal of supporting equitable communities and targeting resources to people in greatest need. (Bernadette Austin, UC Davis Center for Regional Change)<br><br>I support this proposal because it incentivizes behavior rather than prescribing it. (William Leach, Kingdom Development)<br><br>We appreciate the effort to address high-cost issues, but we believe that this UCD Regional Opportunity Index (ROI) does not accurately depict high-cost areas. First, the entire Bay Area is high-cost, and this cannot be differentiated at the census tract level. Second, the 50,000 population threshold will disqualify cities that have the same labor costs. Third, the data may not look at current trends. Lastly, this creates a new mapping layer with standards that change and are difficult to predict. (Elizabeth Kuwada, Eden Housing)<br><br>I am supportive of the idea, but the checkerboard of colors on the map doesn't seem to reflect realities on the ground. Properties across the street from each other should not differ significantly. The index needs to smooth out results in areas adjacent to high- or low-opportunity areas. (Nancy Lewis, Nancy Lewis Associates)<br><br>SCANPH supports the recognition that construction costs can differ significantly across a county and that basis limits should reflect this. While we recognize the difficulty in defining these areas, we feel that such an adjustment should be applied to a larger geographic area than currently designated as dark green in UC Davis's ROI. (Maira Sanchez, Southern California Association of Non-Profit Housing)<br><br>We support encouraging development in high-opportunity areas, but this provision will not provide more resources to pay for higher costs. We request alternative incentives to the scoring system, such as making more credits available to address the high cost of land. (Mara Blitzer, Mayor's Office of Housing and Community Development [San Francisco])<br><br>We support the concept of a 10% threshold limit increase for "high opportunity" areas and are supportive of the suggested alternative metrics proposed by SCANPH. In addition, we encourage TCAC to consider as "high opportunity" any site with immediate frontage on a street containing a fixed rail transit line. This will promote the development of high density TODs. (Brian D'Andrea, Century Housing Corporation)<br><br>We support the concept of an additional boost for projects in high cost areas but are not sure the measure of high-opportunity area measures that need. Costs of projects across the street are likely just as high. TCAC | While staff acknowledges the concerns about the specific mapping tool it proposes to use, the UC Davis Regional Opportunity Index (ROI), staff is not prepared to propose a different tool at this time without similar evaluation and comment by program users. Because staff continues to believe that the concept of a threshold basis limit increase for high-opportunity areas is sound and appreciated by program users in concept, we propose to use the ROI for 2017 and reevaluate this tool and others for future years. Staff does not support expanding the increase to additional geographies as various commenters suggested. Consistent with staff's intent to limit outlier high-cost projects, staff is not supportive of providing the increase in counties with already high threshold basis limits.<br><br>Staff notes that projects in cities of less than 50,000 population may still qualify for the increase if the city and its neighbors exceed 50,000 in aggregate.<br><br>Staff further notes that increasing a project's threshold basis limit does allow a project to qualify for more credits, thereby providing additional resources and making more projects feasible.<br><br>Staff proposes a minor amendment to use correct terminology. |

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| | | could give the boost to projects in the top three categories on the ROI scale and to projects in a DDA or QCT. Incorporated areas should be included. (Kasey Burke, Meta Housing Corporation)<br><br>We strongly support this proposal. Projects in high-opportunity areas also tend to be in high-cost areas. This change can have a significant impact on a project's feasibility. While there is room for improvement to the ROI, this should not be a reason to delay implementation as there is a critical need that should be addressed now versus later. (Candice Gonzalez, Palo Alto Housing)<br><br>We find significant issues with the proposed change and urge staff to work on this over the next year. Of concern are the ROI maps. (Ray Pearl, California Housing Consortium)<br><br>We strongly support an increase in threshold basis limits for high cost/ high opportunity areas but believe the methodology needs more investigation and should not be adopted at this time. (Tara Barauskas, Community Corp. of Santa Monica)<br><br>We are generally supportive of this change as it provides an incentive-based approach. However, we oppose excluding from the increase projects in counties with base threshold limits above $300,000. This is unfair to the higher cost areas of the state. As we noted earlier in our comments regarding "low opportunity communities," there are significant issues with the underlying data source and we strongly feel that this adjustment should be applied to larger geographic areas than those identified as "dark green" in the ROI. Designations of opportunity vary over the span of a few blocks thereby failing to capture neighborhood-level dynamics in places such as downtown San Francisco and the Oakland Hills which have the lowest opportunity areas literally adjacent to high opportunity areas within the same neighborhoods. (Amie Fishman, Non-Profit Housing Association of Northern California; Dan Wu, Charities Housing)<br><br>We commend TCAC for proposing incentives for developers to create and preserve affordable housing in high-opportunity areas and support the 10% threshold basis limit increase as one incentive to encourage development in high-opportunity areas. Unfortunately, this proposal would not actually provide any more resources to pay for these higher costs and will not have much of an impact in helping developers achieve the desired outcome. Rather, it creates the possibility that the developer can pay for these higher costs using other funds without hurting the competiveness of the application for 9% credits. In order to make more substantial progress in expanding housing location choices for low-income families, we recommend that TCAC implement potentially more impactful incentives in the TCAC scoring system, such as relaxed amenities distances or a slight tie-breaker boost for applications in higher-opportunity areas. (Richard Mandel, California Housing Partnership Corporation) | |

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| | | We support the concept of having a threshold basis increase in areas defined as higher opportunity, but have reservation about the index used. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>We are supportive of raising threshold basis limits in places where it is especially expensive to develop housing, and for construction types that increase cost. A 10% boost for factors like these would be welcome. But the ROI is an inappropriate data source to use to determine which places are the most expensive in which to construct housing. Therefore, we oppose the change. (Cynthia Parker, BRIDGE Housing)<br><br>We support a 10% threshold basis limit increase for projects in "high opportunity areas," but are concerned about the proposed tool. High costs are not determined by census tract – with this methodology a project in a dark green area may be across the street from one that is not, although clearly the cost to build those projects would be the same. (Kevin Knudtson, Community Economics)<br><br>We support this as an interim measure, though we have concerns over the ROI index. As more work is done in looking at measures of opportunity, it could be replaced with a different measure. (Alice Talcott, MidPen Housing)<br><br>Eden is concerned by the use of the ROI as a proxy to designate areas with high construction costs. The Index does not accurately depict high cost areas. The entire Bay Area is high cost and this cannot be differentiated at the census tract level, as shown in the Index. Furthermore, the proposed regulation adds another designation, in addition to QCTs and SDDAs, on which developers must rely, but are difficult to predict and may change annually or at more infrequent and uneven intervals. We are also concerned that the data used in the Regional Opportunity Index may not accurately reflect current trends, as the existing index currently uses information from 2013 and 2014, whereas construction costs have skyrocketed since then. (Andy Madeira, Eden Housing)<br><br>The ROI seems arbitrary at the neighborhood level. As an alternative, we suggest the increase be given to projects located within a small DDA and with neighborhoods with high-performing schools. TCAC's further restrictions on areas with already high threshold basis limits and city size are prudent. Further, we believe the increase should only be available to large family projects. (Peter Armstrong, Wakeland Development) | |
| 99 | 10327(c)(6) | TCAC should remove the requirement for appraisals for 4% projects with donated land, where the value of the land is zero due to an inclusionary ordinance. An appraisal increases project costs with no benefit. (Geoffrey Brown, USA Properties)<br><br>We oppose the requirement to use the lesser of purchase price or appraised value for Related Party land transactions. Where the applicant has taken significant risk and made significant expenditures for land acquisition, carry, and entitlement costs, the applicant should be able to | The language originally proposed was not intended to require appraisals for non-competitive projects with donated land. Staff proposes a clarifying amendment to make this clearer and state explicitly that for non-competitive projects the value of donated land shall be zero.<br><br>Staff further proposes an amendment to clarify that related party transactions shall be underwritten using the lesser of the *current* purchase price or appraised value associated with the tax credit |

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| | | benefit from the increase in land value as the result of applicant's investment efforts. These investments are subject to both increase and decrease in land value, and the applicant should have the benefit of upside when also subject to the risk of downside. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>In the statement "the value of land acquired from a Related Party shall be underwritten using the lesser of the purchase price or appraised value" we recommend clarifying that the current purchase price is what is intended. (Kevin Knudtson, Community Economics) | transfer, as opposed to the price or value from when the related party first acquired the property now being resold to the partnership. |
| 100 | 10327(c)(9) | | No changes. |
| 101 | 10327(c)(10) | I oppose this proposal because it will be difficult to quantify the amount and to defend the application of parking standards. This could easily become the next issue like the "offsite public funds reduction" that requires more administrative hassle than benefit. (William Leach, Kingdom Development)<br><br>While SCANPH supports the change for senior and special needs projects, we oppose this change for TOD family projects and/or special needs projects that have a large family component. Some areas are not as well-suited for low parking standards, and such restrictions may increase barriers to neighborhood acceptance of otherwise worthwhile and needed proposed affordable housing. TOD family developments should be allowed to have at least one parking space per unit included in basis to be able to meet both locally-imposed parking requirements as well as serve the needs of residents. We propose the following modifications: 1) Consider a phase-in approach. Developments in the first round of 2017 will find it difficult to make changes to parking offered. 2) Exempt all 4% projects. 3) Clarify that these costs are not considered commercial and that their upkeep can be paid for by residential income. (Maira Sanchez, Southern California Association of Non-Profit Housing)<br><br>It is great to have this tool to argue for reduced parking at the local level, but I'm highly concerned about projects in the pipeline for which this ship has sailed, especially on the 4% side. It would be very helpful if you either delayed this change for at least a year or provided some kind of waiver for projects already programmed with parking. (Caleb Roope, Pacific Companies)<br><br>We concur with SCANPH's comments on this matter. Further, rather than structuring TCAC's laudable parking reduction goal as a reduction to<br>eligible basis, we encourage TCAC to incentivize this goal by offering eligible basis boosts to projects that meet or exceed AB 744 parking ratios. We believe this type of incentive will be more effective than penalizing a developer for exceeding AB 744's ratio, in particular in situations where 0.5 stalls per unit is impractical and could subject an | Staff concurs that the proposed change should only apply to projects that receive entitlements after December 31, 2016 and proposes an amendment accordingly.<br><br>Staff further concurs that the proposed change should only apply to 9% projects and proposes an amendment accordingly.<br><br>Staff continues to believe that basis should be limited for new construction projects with parking that exceeds certain ratios but does agree that the AB 744 ratios may be too restrictive in certain instances. Staff proposes amendments to increase the threshold to 1 space per unit for both large family TOD projects (the provision does not apply at all to large family projects outside of TOD areas) and senior projects outside of TOD areas. Staff further proposes an amendment to clarify the ratios for special needs projects with non-special needs units. The special needs units will retain a 0.3 space per unit ratio while 1 space per unit shall be allowed for studio and 1-bedroom non-special needs units and 2 spaces per units for larger non-special needs units. Staff notes that the proposed changes use the definition of major transit stop from AB 744 (a site containing an existing rail transit station, *a ferry terminal served by either a bus or rail transit service*, or *the intersection of two or more major bus routes with service at least every 15 minutes or less during peak commute periods*), which applies to fewer sites than the definition of a major transit stop in the point section of the TCAC regulations (a site where there is a bus rapid transit station, light rail station, commuter rail station, *ferry terminal*, bus station, or *public bus stop with service at least every 30 minutes during peak commute hours*.<br><br>Given the variance in parking costs, staff continues to believe that requiring each project to pro-rate the cost of parking spaces over the threshold is the best approach. That said, staff remains open to establishing a flat cost to be excluded from basis of $10,000 per surface space and $30,000 per structured space.<br><br>Staff does not support the suggestion to replace the proposal with a threshold basis increase. Staff believes it is inappropriate |

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| | | affordable project to market risk and additional NIMBYism. (Brian D'Andrea, Century Housing Corporation)<br><br>Staff should withdraw this proposal as it may not recognize the actual need for parking. Structured and surface parking should be treated differently. Additionally, the requirement may hinder the ability to include solar PV as carports are often the preferred location. (Geoffrey Brown, USA Properties)<br><br>This is a good proposal in theory and may be workable in infill locations with mass transit, but it is unworkable in suburban and rural areas where vehicles are still needed for work and other essential travel. (Pat Sabelhaus, California Council for Affordable Housing)<br><br>We oppose this change. While we agree with the concept, we don't believe developers should be penalized when cities do not uniformly recognize AB 744 and demand more parking. This proposal can delay projects through additional discretionary processes and actually reduce the amount of affordable units due to financial feasibility and community opposition. If adopted, we urge you to implement in 2018 or 2019. (James Silverwood, Affirmed Housing)<br><br>We oppose this change. Many projects require parking ratios greater than AB 744 standards to compete for tenants or gain community acceptance. Excluding additional spaces from basis could render certain deals infeasible. Developers already have incentives to reduce parking. Moreover, parking should not be excluded from basis on 4% deals, where credits are unlimited. (Kasey Burke, Meta Housing Corporation)<br><br>We support the change for senior and special needs projects, but not for TOD family projects or special needs projects with a family component utilizing 4% credits. TOD family projects should be allowed at least one parking space per unit in basis. (Amie Fishman, Non-Profit Housing Association of Northern California; Candice Gonzalez, Palo Alto Housing; Sharon Rapport, Corporation for Supportive Housing)<br><br>The proposal will disadvantage projects in communities where local zoning requires higher parking ratios. It does not alter local zoning requirements but would serve to increase subsidy needs for feasibility. (Bill Witte and Frank Cardone, Related California)<br><br>While we understand the intent, parking is often the number one issue local governments have against approving affordable housing projects, especially in "high-opportunity areas." This could significantly impair the ability to get projects approved. (Ray Pearl, California Housing Consortium)<br><br>The basis exclusion could have an impact on 9% projects and will definitely have an impact on 4% projects. We believe basis should not be excluded for parking that is required by local jurisdictions or needed for community acceptance or transportation needs. At a minimum, the | potentially to offer additional credits to projects with lower costs. Nor does staff agree that the proposal, particularly as amended, will result in less solar PV.<br><br>The point of AB 744 is that jurisdictions cannot legally require more parking than the ratios allow. As a result, staff does not see how the proposal will delay projects through additional discretionary processes.<br><br>Projects that have substitution costs for reducing parking, such as additional landscaping, will be able to include these substitution costs in basis. It is only the cost of the extra spaces that are provided that are excluded from basis. |

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| | | proposal should be limited to 9% projects and clarified to let existing projects keep their existing parking configurations. (Tara Barauskas, Community Corp. of Santa Monica)<br><br>When we have reduced the number of parking spaces, the costs are not reduced by the same amount. We need to put in landscaping, irrigation, and/or hardscape in its place. These substitution costs are still eligible basis items and yet we will not be able to include them under the proposed revision. Thus it seems the proposed revision is double punitive for the project developer. (Dan Wu, Charities Housing)<br><br>We believe that for senior housing, one parking space should be included in basis. The proposed limitation on basis should not act as a barrier to otherwise deserving housing development. In addition, the standard should not be applied to projects approved before adoption. (Karen Flock and Nicholas Birck, Housing Authority of the City of San Buenventura)<br><br>We oppose this proposal. While we support cost containment and the reduction of parking expense in our projects, we are concerned that this approach penalizes developers who voluntary provide additional parking beyond AB 744's ratios for very valid reasons, such as winning political support for the approval of discretionary entitlements and/or funding of the project. Additionally, the ½ space per unit is very limiting for lower-income families who may need car ownership to accommodate multiple jobs, educational opportunities, and family requirements. If the Committee still wishes to adopt this measure, we strongly suggest it only apply to 9% projects. (Dave Gatzke and Sylvia Martinez, Community Housing Works)<br><br>While it is important to maximize the use of tax credits to serve low-income people, limiting the amount of parking covered in basis at the AB 744 level produces several detrimental consequences. The proposal creates another disincentive to rural areas, and we request you exempt rural non-TOD projects from this rule. It fails to allow spaces for service staff. It increases the likelihood of political defeat for a project. (John Fowler, People's Self-Help Housing)<br><br>Support, with modification. For projects in urban areas, where the amount of parking we think the project needs to build is equal to or lower than the AB 744 minimums, this change is welcome: it may help us to advocate with cities that their parking minimums are too high. This raises pressure on cities to either lower their parking minimums or chip in their own funds to pay for the extra spaces beyond the AB744 limits that they want. However, for family projects in suburban areas, the AB744 parking requirements are too low for some projects. The limit is .5 parking spaces per unit if the project is near a "major transit stop," which could be rail, ferry plus rail or bus, or a bus stop that serves two routes with maximum 15 minute headways during commute peak periods. This latter type of transit stop, while a benefit to the project, may not provide sufficient transit access for a family to live without a car. Therefore, while some suburban projects could meet this requirement, others need more than .5 | |

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| | | parking spaces per unit to adequately serve the families that live there. If implemented as proposed, this change would threaten the feasibility of many suburban projects. We suggest implementing the proposed change with the following edit: use the AB 744 parking ratios, except for family housing within ½ mile of transit; for that type, use 1 space per unit as the standard. (Cynthia Parker, BRIDGE Housing)<br><br>We are concerned about excluding from basis the costs for parking for family new construction projects that exceed the AB 744 parking ratios. The definition of “high quality transit” is not strong enough to justify the low parking ratio for a family project and may not recognize the needs of low income residents where public transit is limited. (Kevin Knudtson, Community Economics)<br><br>We are concerned that the .5 spaces per unit for family TOD projects, is not a reasonable parking ratio in many communities, is not sufficient for our tenants, and will not be defensible with cities or neighbors when seeking project approvals. It should not be used as a new standard. We appreciate that this proposal could give us a tool, particularly on senior and special needs projects, to use to reduce unreasonable parking standards. (Alice Talcott, MidPen Housing)<br><br>We oppose this change as they seem to impact suburban and rural areas more than urban. (Marianne Lim, Burbank Housing Development Corporation)<br><br>Eden is concerned that cities may not approve projects that rely upon the AB 744 law, as cities do not necessarily follow all land use laws. AB 744 is a tool that affordable housing developers have discretion to use, but it is not mandatory. Therefore, assuming that AB 744 is being cited everywhere it applies is erroneous and could be hurtful to some projects. We support the proposed change for senior and special needs project but oppose it for TOD family projects. Having a 0.5 parking ratio for a TOD family project may not be reasonable in many communities given location, unit size and mix, and public transportation options. This may be to the detriment of low income residents, who may be required to use cars to get to work or school, and to the financial health of the property, as very low parking ratios can impact vacancy rates. This regulation change assumes that cities would be the ones paying for the parking above the 0.5 ratio, but many cities have little or no money to give to affordable housing as it is, and likely would not give any more to a project to park it at a higher ratio. Furthermore, many of the cities with the least amount of funding may be cities where having a car is most necessary. (Andy Madeira, Eden Housing)<br><br>We are an enthusiastic supporter of decreasing required parking in affordable housing, but development is subject to site-based negotiations between developers and local jurisdictions. Local governments provide the land use entitlements and the funding to make them feasible. It is often difficult to coax funding out of a jurisdiction if you cannot agree on the amount of parking. Projects with reduced parking already receive a | |

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| | | financial incentive through lower development costs. There is no reason to further disincentivize projects that are required to provide more parking. Further, if the project is developing the maximum number of units the zoning allows, providing extra surface parking may be the most efficient use of the site and should not be penalized. (Peter Armstrong, Wakeland Development) | |
| 102 | 10327(d)(1) | I support this proposal because it adds stability in the industry. (William Leach, Kingdom Development)<br><br>We support this change but think it should apply to 4% deals as well. (Kasey Burke, Meta Housing Corporation)<br><br>We support. (Andy Madeira, Eden Housing) | No changes. |
| 103 | 10327(d)(3) | I support this proposal as a method of living within our means. (William Leach, Kingdom Development)<br><br>We support this proposal and reiterate that all projects on tribal lands should be designated as DDAs, especially given the proposed new advantages for projects in high opportunity areas. (Marie Allen, Travois)<br><br>We support the changes to prevent TCAC from over-allocating state credits. (Rob Wiener, California Coalition for Rural Housing) | Staff proposes an amendment to conform to the changes in Section 10317(c) that implement the credit exchange post-reservation. |
| 104 | 10327(g)(6) | I support this proposal. (William Leach, Kingdom Development) | No changes. |
| 105 | 10327(g)(7) | | No changes. |
| 106 | 10330(b) | We support this change. (Elizabeth Kuwada, Eden Housing; Pat Sabelhaus, California Council for Affordable Housing; David Yarden, AMCAL Multi-Housing; Alice Talcott MidPen Housing) | No changes. |
| 107 | 10335<br>Cashier's check | We support this change. (Elizabeth Kuwada, Eden Housing; Pat Sabelhaus, California Council for Affordable Housing; Dave Gatzke and Sylvia Martinez, Community Housing Works; David Yarden, AMCAL Multi-Housing; Alice Talcott, MidPen Housing; Andy Madeira, Eden Housing)<br><br>We support eliminating this time-consuming and costly requirement. (Marie Allen, Travois) | No changes. |
| 108 | 10335<br>Allocation Fee | We support eliminating this time-consuming and costly requirement. (Marie Allen, Travois)<br><br>We support this change. (Dave Gatzke and Sylvia Martinez, Community Housing Works) | No changes. |

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| 109 | 10337(f) | We generally support the proposed changes, as we believe enforcement of the regulations, including fines, is an important component of maintaining affordability, appropriate tenant and applicant provisions, and accessibility. (Dara Schur and Autumn Elliot, Disability Rights California) | No changes. |
| 110 | 10325(c)(8) | | As noted above in Item 48, on an emergency basis in light of the current turmoil in the tax credit market, staff proposes an additional change to give the Executive Director flexibility for 2016 reservations only to not rescind an award or impose negative points for failure to meet a 90-day letter of intent or 180- or 194-day closing deadline if the circumstances were unforeseen and entirely outside of the applicant's control. |
| 111 | 10327(a) | | Pursuant to comments received in Section 10322(e) and as noted in Item 86, staff further proposes an amendment providing that initial application errors resulting in a shortage of sources of $50,000 or less shall be deemed covered by the contingency line item. |
| 112 | 10327(g) | | Pursuant to the comments received in Section 10322(e), staff further proposes an amendment to this section allowing applicants to correct cash flow shortages or overages of $5000 or less at placed in service. |