CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: September 11, 2017

TO: Tax Credit Stakeholders

FROM: Mark Stivers, Executive Director

SUBJECT: Proposed Regulation Changes with Initial Statement of Reasons

Attached for public review and comment are the regulation changes proposed by the California Tax Credit Allocation Committee (TCAC) staff. This memorandum summarizes the proposed changes. Attached to this memorandum is the complete set of proposed changes with reasoning. The target date for regulation change adoption is December 13, 2017. TCAC staff will conduct public hearings to explain, answer questions, and solicit comments regarding the proposals at the following times and locations:

Tuesday, October 10, 2017
Oakland, 11:00 am
Elihu M. Harris Building
1515 Clay Street, Auditorium
Oakland, CA 94612

Monday, October 16, 2017
Los Angeles, 11:00 am
Ronald Reagan State Building
300 South Spring Street, Auditorium
Los Angeles, CA 90013

Thursday, October 12, 2017
Sacramento, 1:30 pm
Employment Development Department
722 Capitol Mall, Auditorium
Sacramento, CA 95814

Tuesday, October 17, 2017
San Diego, 9:30 am
San Diego Housing Commission
1122 Broadway, Conference Room 426
San Diego, CA 92101

Please see the public notice for additional information regarding public comments on these proposed regulation changes. Interested persons wishing to express their views on the proposed regulation changes may do so at a public hearing and/or may submit written comments to TCAC by 5:00 pm on Monday, October 30, 2017. In the interests of consistency, TCAC prefers that commenters comment at a public hearing or submit written comments, as opposed to both.

Summary of Changes Proposed

The following section summarizes all of the proposed changes to the TCAC regulations. Those changes that staff considers most significant are highlighted in bold. The attached Initial Statement of Reasons provides the actual language and the explanation for each proposed change.

1. Clarify unit terminology. Section 10302(v), page 1.
2. Clarify unit terminology. Section 10302(aa), page 1.
3. Clarify unit terminology. Section 10302(jj)-(nn), page 1.
4. Alter transfer event exemptions to require maintenance of reserves. Section 10302(qq), page 2.
5. Delete redundant reference to the $2.5 million 9% federal credit award limit. Section 10305(e), page 3.
6. Allow a project that meets the criteria for both the at-risk and special needs housing types to request consideration in both set-asides, clarify that the project will count towards the housing type goal based on the set-aside from which it receives an award, and make a conforming change. Section 10315, page 3.
7. Clarify unit terminology and correct a cross-reference. Section 10315(b), page 3.
8. Correct a cross-reference. Section 10315(c), page 5.
9. Require that all projects applying under the Native American apportionment limit occupancy to tribal households and alter the experience provisions that apply to the apportionment. Section 10315(c)(2), page 5.
10. Make conforming changes. Section 10315(e), page 6.
11. **Establish a housing type goal for large family new construction projects located in Very Low Resource areas, with certain exceptions, clarify this is not a housing type for scoring purposes, and clarify that a project that counts towards this housing type goal also counts towards the large family housing type goal. Section 10315(h), page 6.**
12. **In light of the proposal to fold the SRO housing type into the special needs housing type, fold the SRO housing type goal into the special needs housing type goal and set a combined goal at 30%. Section 10315(h), page 6.**
13. **Create a new Northern Region and adjust affected regional percentages accordingly. Section 10315(i), page 8.**
14. Clarify clarify that special needs projects must have at least 50% special needs units in order to be eligible for both the federal basis boost and state credits (“double dip”), clarify the rule requiring double-dipping special needs projects to maximize federal credits, and require TCAC to revise the basis and credit request when the rule is not met. Section 10317(d), page 9.
15. Clarify unit terminology. Section 10317(g)(1), page 10.
16. Correct cross-references. Section 10317(i)(2), page 10.
17. **Apply the high-cost test to 4% plus state credit applications without threshold basis limit increases for deeper targeting. Section 10317(i)(6), page 10.**
18. Condition an ownership transfer on the handover of relevant project documents and files and correct a cross-reference. Section 10320(b)(1), page 11.
19. Correct a cross-reference. Section 10320(b)(2), page 11.
20. **Require TCAC approval for management company changes, condition management company transfers on the handover of relevant project documents and files, and require in-coming management companies that do not meet minimum experience thresholds to attend training. Section 10320(b)(5), page 12.**
21. Correct a cross-reference. Section 10320(d), page 12.
22. Codify the TCAC practice of not entering into qualified contracts. Section 10320(e), page 12.
23. Clarify the language related to TCAC obtaining omitted application documents from third party sources. Section 10322(e), page 13.

24. Update the list of application changes that the Committee may make. Section 10322(f), page 13.
25. Correct a cross-reference. Section 10322(h)(5), page 14.
26. Clarify that, when eligible, an applicant must submit with the application the purchase contract or evidence of purchase, clarify that specified land purchases involving a pass-through related party are deemed to be from an unrelated party, and make a conforming change. Section 10322(h)(9), page 14.
27. Make a conforming change. Section 10322(h)(10), page 15.
28. **Expand eligibility to use the CUAC and allow existing buildings to use the EPBB calculator for solar values. Section 10322(h)(21), page 16.**
29. Make a conforming change. Section 10322(h)(23), page 17.
30. Require an applicant seeking to claim basis for a community service facility to provide a third party tax attorney's opinion that the proposed facility is eligible. Section 10322(h)(34), page 17.
31. Require an applicant seeking to mix senior and non-senior housing within a project to provide a third party legal opinion stating that the project complies with fair housing law. Section 10322(h)(35), page 18.
32. Correct a cross-reference. Section 10322(i)(17), page 18.
33. Correct a cross-reference. Section 10322(i)(18), page 18.
34. **Eliminate the re-application process for 4% projects. Section 10322(j), page 18.**
35. Clarify unit terminology. Section 10325(c), page 19.
36. **Eliminate the leveraging point category. Section 10325(c)(1), page 20.**
37. Correct subsection numbering. Section 10325(c)(2)-(10), page 22.
38. **Allow any tribal applicant, within or outside the Native American apportionment, to contract with experienced general partner entities, allow Tribes also to contract with pre-approved developers who have not had ownership interests in previous projects, and clarify for all projects that each project for which experience points are requested must contain at least ten affordable units subject to a regulatory agreement. Section 10325(c)(2), page 23.**
39. Delete obsolete language. Section 10325(c)(3)(A), page 26.
40. Correct a cross-reference. Section 10325(c)(3)(L), page 27.
41. Clarify unit terminology and make conforming changes. Section 10325(c)(4), page 27.
42. Clarify unit terminology. Section 10325(c)(5)(A)1., page 27.
43. Update the listing entity for certified farmers' markets. Section 10325(c)(5)(A)4., page 28.
44. Clarify unit terminology. Section 10325(c)(5)(A)5., page 29.
45. Make a conforming change. Section 10325(c)(5)(A)7., page 30.
46. Update high-speed internet speeds and clarify unit terminology. Section 10325(c)(5)(A)10., page 30.
47. **Provide site amenity points for new construction large family projects located in Highest or High Resource Areas. Section 10325(c)(5)(A)11., page 30.**
48. Require TCAC to proportionately score services in special needs projects with less than 75% special needs units. Section 10325(c)(5)(B), page 31.
49. Clarify unit terminology. Section 10325(c)(5)(B)5., page 33.
50. Clarify unit terminology. Section 10325(c)(5)(B)6., page 33.
51. Make a conforming change. Section 10325(c)(5)(B), page 33.
52. Clarify unit terminology and standardize large family bedroom requirements. Section 10325(c)(5)(B)11., page 33.

53. Clarify unit terminology and standardize large family bedroom requirements. Section 10325(c)(5)(B)12., page 34.
54. Correct a cross-reference. Section 10325(c)(6)(E), page 34.
55. Remove the requirement for projects seeking specified sustainability points to provide the Sustainable Building Methods Workbook, allow projects with photovoltaics offsetting tenant loads to use the EPBB calculator for solar values, and correct cross-references. Section 10325(c)(6)(G), page 34.
56. Revise the Lowest Income Points Table and clarify unit terminology. Section 10325(c)(7)(A), page 36.
57. Clarify unit terminology. Section 10325(c)(7)(B), page 38.
58. In light of the existing threshold requirement, eliminate readiness points for having all necessary public or tribal land use approvals, conform the terms and definitions for an enforceable financing commitment, and delete obsolete language. Section 10325(c)(8), page 38.
59. Clarify unit terminology. Section 10325(c)(9)(B), page 40.
60. Clarify unit terminology and correct a cross-reference. Section 10325(c)(9)(F), page 40.
61. Import the existing definition of public funds, require an applicant seeking tiebreaker credit for donated land from a non-public entity to provide a specified certification from an independent CPA or independent tax attorney, and clarify that adaptive reuse projects are eligible for the size factor. Section 10325(c)(10), page 40.
62. Clarify that specified fee reductions via ordinance receive tiebreaker credit. Section 10325(c)(10), page 40.
63. For "hybrid" developments that meet specified criteria, include in the size factor of the 9% project any tax credit units in the 4% tax credit application. Section 10325(c)(10), page 40.
64. Discount public funds by the difference between purchase price and appraised value, with specified exceptions. Section 10325(c)(10), page 40.
65. Create a bonus to the total tiebreaker score for new construction large-family projects located in areas designated as Highest Resource or High Resource. Section 10325(c)(10), page 40.
66. Import the methodology for calculating total eligible basis, clarify which excluded costs do not require a tax professional letter, and delete obsolete language. Section 10325(d), page 47.
67. Make a conforming change. Section 10325(d)(1), page 48.
68. Make a conforming change. Section 10325(f)(1)(B)(ii), page 48.
69. Make a conforming change. Section 10325(f)(1)(B)(iv), page 48.
70. Delete obsolete language. Section 10325(f)(3), page 49.
71. Create an appeal grace period for the 9% threshold requirement related to local entitlements. Section 10325(f)(4), page 50.
72. Update green rater certification references. Section 10325(f)(7)(A), page 50.
73. Require SRO units, absent a waiver, to provide a refrigerator and a cooking facility and clarify unit terminology. Section 10325(f)(7)(E), page 51.
74. Clarify unit terminology. Section 10325(f)(7)(G), page 51.
75. Clarify unit terminology. Section 10325(f)(7)(J), page 52.
76. Codify current interpretations of accessible parking requirements and clarify unit terminology. Clarify unit terminology. Section 10325(f)(7)(K), page 52.
77. Require for 9% projects that all soft funds be committed at application. Section 10325(f)(8), page 53.

78. Make a conforming change and delete obsolete language. Section 10325(f)(8)(F), page 54.

79. Increase the maximum 9% federal tax credit award for projects with more than 100 low-income units from $2.5 million to $3 million and clarify unit terminology. Section 10325(f)(9), page 54.

80. Require resyndication projects to demonstrate a rehabilitation need of at least $5000 per unit over the first three years, unless the project receives a waiver from the transfer event requirements or has less than 10 years remaining on a TCAC regulatory agreement. Section 10325(f)(11)(C), page 55.

81. Require a scattered site more than one mile from the nearest other site to meet the common area, play/recreational facility, and laundry facility requirements independently. Section 10325(g), page 56.

82. Clarify unit terminology. Section 10325(g)(1)(A)-(C), page 56.

83. Clarify unit terminology. Section 10325(g)(1)(H), page 57.

84. Delete obsolete language, Section 10325(g)(2)(A), page 57.

85. Clarify accessible parking requirements for the senior housing type, allow rehabilitation projects to seek a waiver based on impracticality or undue financial hardship, and clarify unit terminology. Section 10325(g)(2)(B), page 57.

86. Clarify unit terminology. Section 10325(g)(2)(D), page 58.

87. Clarify unit terminology. Section 10325(g)(2)(E), page 58.

88. Fold the SRO housing type into the special needs housing type. Section 10325(g)(3), page 59.

89. Import housing type standards relevant to SRO units, update cross-references, clarify unit terminology, and delete redundant and inapplicable requirements. Section 10325(g)(4), page 60.

90. Reduce the minimum percentage of special needs units in a special needs project from 50% to 25%. Section 10325(g)(4), page 60.

91. Correct subsection numbering. Section 10325(g)(5), page 62.

92. Delete obsolete language. Section 10325.5, page 62.

93. Allows 4% non-competitive applicants to submit evidence of local land use approvals during the review process and create an appeal grace period beyond the application date for competitive 4% applicants. Section 10326(g)(3), page 63.

94. Corrects a cross-reference. Section 10326(g)(5), page 64.

95. Require resyndication projects to demonstrate a rehabilitation need of at least $5000 per unit over the first three years, unless the project receives a waiver from the transfer event requirements or has less than 10 years remaining on a TCAC regulatory agreement. Section 10325(g)(8)(C), page 64.

96. Clarify unit terminology. Section 10326(j)(3), page 65.

97. Clarify that adaptive reuse projects, for purposes of the developer fee limits, are considered rehabilitation projects; clarify that TCAC at placed in service will use the higher of the unadjusted threshold basis tables from the year of application or the placed in service year to calculate the developer fee cost adjustment; and clarify unit terminology. Section 10327(c)(2)(A), page 65.

98. Increase from $20,000 per unit to $25,000 per unit the threshold at which a 4% applicant may receive a developer fee equal to 15% of the acquisition basis and clarify unit terminology. Section 10327(c)(2)(B)(ii), page 66.

99. Allow a non-competitive project to increase the developer fee in basis, but not in cost, at placed in service; create an exception to the developer fee rule for simultaneously phased all-9% credit

developments for when the preceding phase is at least 150 units; and expand the definition of simultaneous phases to include projects within ¼ mile of each other. Section 10327(c)(2)(C), page 66.

100. Codify TCAC's practice of applying at placed in service the higher of the threshold basis from the year of application or the placed in service year for the purposes of limiting basis requests. Section 10327(c)(5), page 67.
101. Clarify unit terminology. Section 10327(c)(5)(A), page 68.
102. Require applicants seeking a threshold basis limit increase for photovoltaics that offset tenant loads to submit a Sustainable Building Methods Workbook; allow rehabilitation projects seeking the threshold basis limit increase for photovoltaics offsetting tenant loads to use the EPBB calculator for solar values; and specify the documentation required to verify threshold basis limit increases for photovoltaics offsetting common area loads. Section 10327(c)(5)(B), page 68.
103. Standardize flooring types eligible for a threshold basis limit increase. Section 10327(c)(5)(B)(7), page 69.
104. Standardize flooring types eligible for a threshold basis limit increase. Section 10327(c)(5)(B)(8), page 70.
105. Limit the threshold basis limit increase for US EPA Indoor Air Plus Program certification to new construction projects. Section 10327(c)(5)(B)(9), page 70.
106. Clarify unit terminology. Section 10327(c)(5)(C), page 70.
107. Clarify the threshold basis limit increase for environmental remediation. Section 10327(c)(5)(D), page 70.
108. Alter the existing threshold basis limit increase for projects in high opportunity areas by 1) referencing Highest Resource Areas as determined by the TCAC/HCD Opportunity Area Map; 2) adding a 5% increase for projects in High Resource Areas; 3) increasing the threshold above which the increase is no longer available; and 4) removing the exclusion for projects outside cities of 50,000. Section 10327(c)(5)(F), page 71.
109. Clarify how an application should represent a purchase price in excess of appraised value, that the overage shall be deducted from total project cost and permanent financing for purposes of the shortfall calculation only, and that rehabilitation projects must limit improvement acquisition basis to the amount supported by the appraisal; and expand the current waiver authority to specified new construction projects and to projects in which the purchase price does not exceed the sum of third party debt encumbering the property that will be assumed or paid off. Section 10327(c)(6), page 71.
110. Make a conforming change. Section 10327(c)(7), page 73.
111. Clarify the ratios for special needs housing above which applicants must exclude parking basis. Section 10327(c)(10)(A), page 73.
112. Clarify the ratios for special needs housing above which applicants must exclude parking basis. Section 10327(c)(10)(B), page 74.
113. Correct a cross-reference. Section 10327(d)(2), page 74.
114. Clarify that on-going site amenity expenses are not counted towards the minimum operating expense requirements; exclude from the pro forma any expenses that do not continue through all 15 years; Clarify that operating reserve drawdowns for special needs projects to break even are limited to reserves in excess of the required 3-month operating reserve; and make conforming changes. Section 10327(f), page 74.

115. Clarify that on-going site amenity expenses are not counted towards the minimum operating expense requirements and make conforming changes. Section 10327(g)(1), page 75.

116. Apply vacancy rates to the types of units within a project generally and apply the 10% vacancy rate only to special need units and non-special needs SRO units that do not have significant rental subsidy. Section 10327(g)(3), page 75.

117. Delete the authority to reduce a credit award for failure to meet cash flow parameters. Section 10327(g)(6), page 76.

118. Allow a credit year exchange in the event that a development is significantly delayed due to damage directly caused by fire, war, or act of God. Section 10328(g), page 76.

119. Establish a specific appeals process for negative point and fine appeals; shorten the time periods for second and third application appeals; and impose appeal fees only for appeals to the full Committee. Section 10330(b), page 77.

120. Impose appeal fees only for appeals to the full Committee. Section 10335(c), page 78.

121. Impose a $1000 fee for tax form amendments not due to TCAC error. Section 10335(g), page 78.

122. Clarify owner's responsibility to accept all rental subsidy renewals available. Section 10337(a)(3)(A), page 79.

123. Clarify unit terminology. Section 10337(a)(3)(B), page 79.

124. Allow units in a special needs project designated at reservation for homeless youth to be occupied entirely by full-time students who are not dependents of another individual during the extended use period. Section 10337(b)(3), page 79.

125. Clarify unit terminology. Section 10337(c)(1), page 80.

126. Make a conforming change. Section 10337(f)(3), page 80.

2017 Proposed Regulation Change with Reason
September 11, 2017

Section 10302(v)

v) High-Rise Project(s). A project which applies for a Credit reservation pursuant to Section 10325 in which 100 percent (100%) of the residential units ~~(other than manager's units) would be Rent-Restricted~~are Tax Credit Units and for which the project architect has certified concurrently with the submission of an application to the Committee that (1) one or more of the buildings in the project would have at least six stories; and (2) the construction period for the project is reasonably expected to be in excess of 18 months.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). This is a conforming change to reflect the new definitions.

Section 10302(aa)

aa) Market-Rate Unit. A unit other than a ~~Low-Income Unit~~ Tax Credit Unit as defined by these regulations.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). This is a conforming change to reflect the new definitions.

Section 10302(jj) – (nn)

~~jj) Rent-Restricted Units. Units meeting the requirements of IRC Section 42(g)(2).~~

~~kk~~jj) Reservation. As provided for in H & S Code Section 50199.10(e) the initial award of Tax Credits to an Eligible project. Reservations may be conditional.

~~ll~~kk) Rural. An area defined in H & S Code Section 50199.21.

~~mm~~ll) Scattered Site Project. A project in which the parcels of land are not contiguous except for the interposition of a road, street, stream or similar property.

(1) For acquisition and/or rehabilitation projects with one pre-existing project-based Section 8 contract in effect for all the sites, there shall be no limit on the number or proximity of sites.

(2) For acquisition and/or rehabilitation projects with any of the following: (A) existing federal or state rental assistance or operating subsidies, (B) an existing CTCAC Regulatory Agreement, or (C) an existing regulatory agreement with a federal, state, or local public entity, the number of sites shall be limited to five, unless the Executive Director approves a higher number, and all sites shall be either within the boundaries of the same city, within a 10-mile diameter circle in the same county, or within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more.

(3) For new construction projects and all other acquisition and/or rehabilitation projects, the number of sites shall be limited to five, and all sites shall be within a 1 mile diameter circle within the same county.

~~nn~~mm) State Credit. The Tax Credit for low-income rental housing provided by the Revenue and Taxation Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, including the State Farmworker Credit, formerly the Farmworker Housing Assistance Program provided by the Revenue and Taxation Code Sections 12206,17058, and 23610.5 and by the Health and Safety Code Sections 50199.2 and 50199.7.

nn) Tax Credit Units. Low-Income Units and manager units.

Reason: The current regulations classify the different types of units in a project in varying ways and often are silent on which class is covered by a certain regulatory provision. Staff proposes to clarify this situation. The proposed changes delete the duplicative definition of "restricted units" and result in three defined types of units: 1) low-income units, as defined by federal law; 2) tax credits units which are low-income units plus manager units (i.e., any units for which an owner may claim tax credits); and 3) market-rate units, which are anything other than tax credit units. In subsequent sections of these regulations changes, staff proposes to apply these definitions to individual provisions. Where the regulations refer solely to units without one of these three definitions, the reference is to all units in the project.

Section 10302(qq)

(qq) "Transfer Event" shall mean (i) a transfer of the ownership of a project, (ii) the sale or assignment of a partnership interest in a project owner and/or (iii) the refinancing of secured debt on a project. The following shall not be deemed a Transfer Event: (i) the transfer of the project or a partnership or membership interest in a project owner in which reserves remain with the project and the debt encumbering the project is not increased, refinanced or otherwise modified, (ii) the refinancing of project debt which does not increase the outstanding principal balance of the debt other than in the amount of the closing costs and fees paid to the project lender and third parties as transaction costs, provided that reserves remain with the project, (iii) the replacement of a general partner by a limited partner upon the occurrence of a default by a general partner in accordance with partnership agreement of the project owner, (iv) a transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party, (v) a "Subsequent Transfer" pursuant to Section 10320(b)(4)(B) hereof, (vi) a transfer of the ownership of a project subject to an existing tax credit regulatory agreement with a remaining term of five (5) or less years if the transfer is made in connection with a new reservation of 9% or 4% tax credits, or (vii) the sale of a project, or the sale or assignment of a partnership interest in a project owner, to an unrelated party for which the parties entered into a purchase agreement prior to October 9, 2015. Notwithstanding the foregoing, the term "Transfer Event" shall be applicable only to projects in which at least 50% of the units are Tax Credit Units.

Reason: The current regulations exempt from the definition of "Transfer Event" the sale of a property in which the debt encumbering the project is not increased, refinanced or otherwise as a well as the refinance of a property which generally does not increase the outstanding principal balance of the debt on the property. Staff believes that these exemptions should only apply when the project's reserves also remain with the project. Paying out the reserves is akin to increasing debt on the property in that both reduce the project's financial position. Moreover, the transfer event provisions are intended to ensure that a project's rehabilitation needs are covered when a sale or refinance takes place. Paying out a project's reserves is in direct conflict with that goal. The proposed changes allow for exemption only when the debt and reserves remain constant, except as provided for transaction costs.

Section 10305(e)

~~(e) Allocation Limit. No one project applying for 9% Tax Credits may receive an allocation of more than Two Million Five Hundred Thousand ($2,500,000) Dollar.~~

Reason: This provision is redundant to Section 10325(f)(9)(D) and therefore being removed. The $2.5 million limit on individual federal credit awards will still apply.

Section 10315

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~~,~~ or special needs~~, or SRO~~ housing type under subsection (h) below, first, within that housing type's relevant set-aside. Non-rural applicants meeting the criteria for both the special needs and at-risk housing types pursuant to Section 10325(g) may request to be considered in both set-aside. ~~In addition, a~~Applicants ~~competing within~~receiving an award from either the At-~~r~~Risk or Special Needs~~/SRO~~ set-aside shall be considered as that housing type for purposes of paragraph (h).

Reason: TCAC generally only consider projects for the At-Risk or Special Needs set-asides if they apply as that respective housing type. The proposed changes allow a project that meets the criteria for both housing types to request consideration in both set-asides. The proposed change further clarifies that a project receiving a reservation of tax credits from the At-Risk or Special Needs set-asides will be considered as that housing type for purposes of the housing type goals, regardless of the housing type for which they apply.

In addition, staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). This is a conforming change.

Section 10315(b)

(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~~3) 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, 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 for which the amount of development capital funding committed shall be at least $500,000 or $10,000 per unit for all Low-Income ~~units~~ Units in the project (irrespective of the number of units assisted by the referenced programs), whichever is greater; or 2) 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 Low-Income ~~units~~ 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.

• Second, other qualified homeless assistance projects.

To compete as a homeless assistance project, at least fifty percent (50%) of the Low-Income ~~units~~ 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.

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.

Reason: Staff proposes to define three different types of units (see the discussion in Section 10302(jj)-(nn)). This proposed change to this section uses one of these definitions to clarify that the percentages and per unit funding commitment requirements for homeless assistance projects are a function of low-income units. The proposed changes also correct a cross-reference related to folding the SRO housing type into the Special Needs Housing Type (see the discussion in Section 10325(g)(3)).

Section 10315(c)

(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 calendar 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~~9), except that the Senior housing type goal established by Section 10315(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.

Reason: Staff proposes to eliminate the Leveraging point category (see the discussion in Section 10325(c)(1)). This is a conforming change to reflect the renumbering of the remaining point categories.

Section 10315(c)(2)

(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~~ and in which 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~~the application shall ~~garner~~ receive the minimum points available for both general partner and management company experience under Section 10325(c)(~~2~~1) ~~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.

Reason: The first proposed change requires that all projects applying under the Native American apportionment, as opposed to just off-reservation projects, limit occupancy to tribal households. The intent of the apportionment is to serve tribal households, and staff seeks to avoid the situation in which a project

sponsored by a tribe but serving non-Native households could receive credits from this apportionment. Such projects may apply for credits outside of this particular apportionment. The language does not require that households be members of the sponsor tribe but rather allows households to be members of any tribe.

The remaining proposed changes relate to the experience thresholds for applications under the Native American apportionment. First, the changes clarify that the application must *receive*, as opposed to the vague term *garner*, minimum experience points in both the general partner and management company experience categories. Second, whereas staff proposes in Section 10325(c)(2) [to become (c)(1)] to provide all tribal applicants, not just those applying under the apportionment, with the ability to contract with entities receiving general partner experience points, as opposed to bringing such entities in as co-general partners, the proposed changes to this section remove the redundant reference to partnering or contracting and simply require tribal apportionment applications to receive minimum points in both the general partner and management company experience categories, as amended.

Section 10315(e)

(e) Special Needs~~/SRO~~ set-aside. After accounting for the second supplemental set-aside described in (g), four 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~~subsection (h) below. Any proposed project that applies and is eligible under the Nonprofit ~~Set Aside~~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.

Reason: Staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3). The proposed changes to this section contain conforming changes.

Section 10315(h)

(h) Housing types. To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below, exclusive of the Acquisition and/or Rehabilitation and Large Family New Construction located in a Lowest Resource Area housing types which ~~is~~ are listed here solely for purposes of the tiebreaker, 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~~9) 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%
Large Family New Construction located in census tracts designated on the TCAC/HCD Opportunity Area Map as Lowest Resource, exclusive of projects receiving 6 transit amenity points and projects for which at least 75% of the Low-Income Units are replacing existing affordable housing	30%
Special Needs	~~25~~30%
~~Single Room Occupancy~~	~~15%~~

At-Risk	15%
Seniors	15%
Acquisition and/or Rehabilitation within the rural set-aside only	30% of the credits available in the rural set-aside

For purposes of the Acquisition and/or Rehabilitation Housing Type Goal, a project will be considered an acquisition and/or rehabilitation project if at least 50% of the units were previously residential dwelling units.

A large family new construction project located in a Lowest Resource census tract shall count against both that housing type and the general Large Family housing type.

Reason: Following up on last year's regulation discussions and the spring forums TCAC co-hosted with HCD, staff proposes a number of measures to increase choice and access to place-based opportunity for residents of large family developments (see the background on the issue generally and related changes in Section 10325(c)(10) and also the related changes in Sections 10325(c)(5)(A)11. and 10327(c)(5)(F)). While the majority of this year's proposed changes are incentives for new construction large family 9% tax credit projects in high resource areas, staff continues to believe that significantly improving access to opportunity and resident choice also requires TCAC to address the historic over-concentration of competitive tax credits to projects in the lowest resource areas. Between 2003 and 2015, 62% of 9% new construction large family units were located in lowest resource areas based on the recent TCAC/HCD Opportunity Area Map. 17% were located in the highest or high resources areas, which represent roughly 40% of all census tracts.

Unlike last year's proposal that would have prohibited the award of competitive credits to new construction large family projects in the lowest opportunity areas in most cases, this year's proposed change sets a 30% housing type goal for such projects to prevent a disproportionate award of credits to such projects. Between 2003-2015, 35% of total 9% federal and state credits (i.e., all housing types in all locations) were awarded to large family new construction projects in the lowest resources areas. The 30% housing type goal represents a 14% decrease from this recent historic average (though in actuality it is probably closer to a 10% reduction from the historic trend based on the exclusions mentioned below). Similar to other housing type goals, once the goal is reached (i.e., 30% of combined federal and state credits in any round are awarded to such projects), TCAC will look for other projects to fund and come back to large family new construction projects in the lowest resource areas when other projects are unavailable for funding. Staff will monitor this housing type goal and may suggest adjustments in future years to achieve TCAC's policy goals.

Staff proposes to exclude projects for which at least 75% of the low-income units are replacing existing affordable housing from the calculation of this housing type goal. The intent of this exclusion is to recognize, for this purpose at least, that replacement housing is more akin to a rehabilitation project, and staff believes that rehabilitation projects should be eligible for credits regardless of location on a resource map. In addition, staff proposes to exclude projects receiving at least 6 transit amenity points from the calculation of this housing type goal in order to support transit-oriented development at major transit stops and as a crude proxy for neighborhoods subject to gentrification. The proposed change also makes clear that a large family new construction project located in a lowest resource census tract shall count against both that housing type and the general large family housing type. In essence, the new housing type goal for lowest resource areas is a subset of the large family housing type.

The proposed change uses the TCAC/HCD Opportunity Area Map to establish the resource rating of a census tract. Please see the discussion of the mapping tool in Section 10325(c)(10). Staff notes that one of the main

improvements of the new mapping tool over the UC Davis maps referenced last year is that resource areas are determined regionally, as opposed to statewide. As a result, whole regions are not put at a disadvantage.

In addition, staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). The proposed changes to this section delete the SRO housing type as a conforming change and also increase the special needs housing type goal to 30% to reflect the addition of projects that previously would have counted against the separate SRO housing type goal. Whereas the current special needs and SRO housing type goals, when combined, total 40%, setting the housing type goal for the expanded special needs housing type is a significant reduction, though it is also true that SRO projects rarely if ever reached the full 15% goal.

Section 10315(i)

(i) Geographic Apportionments. Annual apportionments of Federal and State Credit Ceiling shall be made 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%
East Bay Region (Alameda and Contra Costa Counties)	7.4%
Orange County	7.3%
South and West Bay Region (San Mateo, Santa Clara Counties)	6.0%
Capital ~~and Northern~~ Region (~~Butte~~, El Dorado, Placer, Sacramento, ~~Shasta~~, Sutter, Yuba, Yolo Counties)	~~6.7~~5.7%
~~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%
Northern Region (Butte, Marin, Napa, Shasta, Solano, and Sonoma Counties)	4.4%
San Francisco County	3.7%

Reason: The proposed regulation changes alter the composition of various regions. First, staff proposes to split off the North Bay counties (Marin, Napa, Solano, and Sonoma) from the current North and East Bay Region, leaving Alameda and Contra Costa counties alone in the renamed East Bay Region. Second, staff proposes to split off Butte and Shasta counties from the Capital and Northern Region, leaving the remaining counties in a renamed Capital Region. Third, staff proposes to combine those split off counties (Butte, Marin, Napa, Shasta, Solano, and Sonoma) into a new Northern Region. While admittedly somewhat geographically and demographically distinct, staff believes that these counties are as equally connected as the current regional alignment and a better fit together from a competitive perspective. Staff has applied the exact same formula used to determine the existing apportionments to calculate the apportionments for the revised and new regions. Lastly, the proposed changes do not alter the South and West Bay's composition or apportionment but simply move it up the list to reflect the descending apportionment percentages. Staff is uninterested in any other regional changes at this time.

Section 10317(d)

(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 with at least 50% special needs units and 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 requested basis to the project's threshold basis limit or the credit request to the amount available in the project's geographic region or the ~~$2.5 million~~ limits described in Section 10325(f)(9)(D). CTCAC shall revise the basis and credit request if the application fails to meet this requirement. 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.

Reason: Staff proposes a few changes to this section. First, the proposed changes clarify that special needs projects must have at least 50% special needs units in order to be eligible for both the federal basis boost and state credits (commonly referred to as "double-dipping"). While staff proposes to reduce the minimum percentage of special needs units in a special needs project to 25% (see the discussion in Section 10325(g)(4)), state law continues to require a minimum 50% special needs units for a project to double dip.

The proposed changes clarify the recent rule for special needs projects requesting both the 130% basis boost and state credits to maximize federal credits. First, they remove the word "voluntary" to reinforce that any reductions in basis not specifically mentioned are prohibited. Second, they explicitly add to the list of exceptions reductions in basis necessary to bring an applicant's request within the project's threshold basis limit. Third, whereas staff is proposing changes to the maximum credit award in Section 10325(f)(9)(D), the changes refer to the section where the limits are established rather than the limit itself. An applicant requesting the basis boost and state credits must request all of the project's eligible basis except to meet one of these three exceptions.

In addition, the proposed changes allow TCAC staff to fix applications that err in complying with this requirement.

Section 10317(g)(1)

(1) the project is comprised of 100% ~~tax~~ Tax ~~credit~~ Credit ~~eligible units~~Units~~, excluding managers' units~~. Excepted from this rule are projects proposed for acquisition and rehabilitation that were developed under the HUD Section 236 or 202 programs, and are subject to those programs' use restrictions. Projects under those circumstances may propose a lesser percentage of ~~eligible~~ Tax Credit ~~units~~ Units to accommodate existing over-income residents who originally qualified under Section 236 or 202 income eligibility;

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). This is a conforming change to reflect the new definitions.

Section 10317(i)(2)

(2) The project will be competitively scored under the system delineated in Section 10325(c)(~~2~~1) through (~~8~~7) and (~~10~~9), except that the only tie breaker shall be the final tie-breaker enumerated at Section 10325(c)(~~10~~9) of these regulations;

Reason: Staff proposes to eliminate the leveraging point category (see the discussion in Section 10325(c)(1)) and renumber the subsequent point categories. These are conforming changes.

Section 10317(i)(6)

(6) Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits, excluding any increase for deeper targeting pursuant to Section 10327(c)(5)(C). 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. Any project 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%.

Reason: The current regulations impose a high-cost test on 9% tax credit applications. A project whose total eligible basis exceeds 130% of the project's adjusted threshold basis limit is considered high-cost, and staff will not recommend such a project for reservation. At placed in service, an applicant is subject to negative points if the project's ratio exceeds 140%.

Projects seeking 4% federal credits and state credits are also competitive but not subject to the high-cost test. This proposed change imposes the high-cost test on 4% plus state credit applications with one significant addition. In calculating the adjusted threshold basis limit for these projects for purposes of the high-cost test only, the increases for deeper targeting are excluded. Projects would still benefit from the deeper targeting increases for purposes of requesting basis but would not benefit from the increases for the high-cost test. The increases for deeper targeting are meant to incentivize affordability, but affordability has very little to nothing to do with a project's development cost.

Section 10320(b)(1)

(1) No allocation of the Federal or State Credits, or ownership of a Tax Credit project, may be transferred without 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~~2)(M), in addition to other remedies. The following requirements apply to all ownership or Tax Credit transfers requested after January 31, 2014:

(A) Any transfer of project ownership (including changes to any general partner, member, or equivalent responsible party), or allocation of Tax Credits shall be evidenced by a written agreement between the parties to the transfer, including agreements entered into by the transferee and the Committee.

(B) The entity replacing a party or acquiring ownership or Tax Credits shall be subject to a "qualifications review" by the Committee to determine if sufficient project development and management experience is present for owning and operating a Tax Credit project. Information regarding the names of the purchaser(s) or transferee(s), and detailed information describing the experience and financial capacity of said persons, shall be provided to the Committee. Any general partner change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(~~2~~1)(A) as the exiting general partner. At a minimum this must be three (3) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the three projects must be Low Income Housing Tax Credit projects in California. If the new general partner does not meet these experience requirements, then substitution of general partner shall not be permitted.

(C) The transferor shall deliver all tenant files, inspection records, financial statements, and reserve balances to the transferee prior to or concurrent with the transfer. Failure to deliver such records may subject the transferor to negative points or a fine.

Reason: Staff is aware of cases in which new owners or managers do not have access to a project's tenant files, inspection records, or relevant financial information. It is impossible for the TCAC compliance unit to conduct a project inspection without tenant files. Previous inspection records and financial statements are beneficial to the on-going operation of the project. The proposed change imposes a condition on all credit and ownership transfers that the transferor deliver all tenant files, inspection records, financial statements, and reserve balances to the transferee prior to or concurrent with the transfer. Failure to deliver such records may subject the transferor to negative points or a fine.

The proposed changes also make a conforming change to reflect the renumbering of Section 10325(c)(2).

Section 10320(b)(2)

(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~~2)(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:

Reason: The proposed change makes a conforming change to reflect the renumbering of Section 10325(c)(3).

Section 10320(b)(5)

(5) No management company of an existing or new tax credit project shall be replaced without prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points or a fine. With respect to 4% tax credit projects, management companies ineligible for at least two management company experience points pursuant to Section 10325(c)(1)(B) shall obtain training in project operations, on-site certification, fair housing law, and manager certification in IRS Section 42 program requirements from CTCAC or a CTCAC-approved, nationally recognized entity. The out-going management company shall deliver all tenant files, inspection records, financial statements, and reserve balances to the in-coming management company prior to or concurrent with the transfer. Failure to deliver such records may subject the out-going management company to negative points or a fine.

Reason: The regulations have long required that owners who received competitive tax credits maintain the experience points of the management company for the entire 55-year term of the regulatory agreement. The regulations have also long required for 4% tax credit projects that management companies ineligible for minimum management company experience points receive training. To enforce these provisions, the proposed changes require TCAC to approve all management company changes and allow for negative points or a fine for failure to seek approval. In addition, similar to the training requirement for original management companies who are ineligible for minimum experience points, the proposed changes also require replacement management companies ineligible for minimum experience points to obtain training.

Lastly, staff is aware of cases in which new owners or managers do not have access to a project's tenant files, inspection records, or relevant financial information. It is impossible for the TCAC compliance unit to conduct a project inspection without tenant files. Previous inspection records and financial statements are beneficial to the on-going operation of the project. The proposed change imposes a condition on all management company transfers that the out-going company deliver all tenant files, inspection records, financial statements, and reserve balances to the in-coming management company prior to or concurrent with the transfer. Failure to deliver such records may subject the out-going management company to negative points or a fine.

Section 10320(d)

(d) False information. Upon being informed, or finding, that information supplied by an applicant, any person acting on behalf of an applicant, or any team member identified in the application, pursuant to these regulations, is false or no longer true, and the applicant has not notified CTCAC in writing, the Committee may take appropriate action as described in H & S Code Section 50199.22(b) and in section 10325(c)(~~3~~2) of these regulations. Additionally the Executive Director may assess negative points to any or all members of the development team as described in Section 10322(h)(5).

Reason: The proposed change makes a conforming change to reflect the renumbering of Section 10325(c)(3).

Section 10320(e)

(e) CTCAC shall not enter into a qualified contract, as defined in IRC Section 42(h)(6)(F).

Reason: TCAC has long had a policy that it will not enter into qualified contracts, as permitted by the Internal Revenue Code. The proposed change codifies this policy into the regulations.

Section 10322(e)

(e) Complete application. 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 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 application omissions, 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~~The third party sources shall certify that all evidentiary documents deemed to be missing from the application had been executed, and were in the third-party source's possession, 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.

Reason: In the event of competitive application omissions, the current regulations allow the Executive Director to request additional clarifying information from third party sources. The regulations also state that 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. This latter sentence is vague. It is not particularly clear whether the permissiveness applies the execution date of the documents or simply the Director's request for certification. The proposed changes resolve the ambiguity by requiring in all cases that the third party certify that the documents had been executed on or before the application due date. The proposed changes further require the sources to certify that the documents were in their possession prior to the application due date. Staff is willing to seek omitted documents from third-party sources, but in fairness to all other applicants the third party sources need to have had the documents by the deadline. Staff believes it would be unfair to allow applicants to pass missing documents to the third party sources after the deadline.

Section 10322(f)

(f) Application changes. Only the Committee may change an application as permitted by Sections 10317(d), 10325(c)(7)(B), and10327(a). Any changes made by the Committee pursuant to ~~Section 10327(a)~~those sections shall never increase the score or credit amount of the application as submitted, and may reduce the application's score and/or credit amount.

Reason: The proposed changes to Section 10317(d) allow staff to correct errors related the maximization of federal credits for double-dipping special needs projects. The proposed changes to this section simply cross-reference that allowance, and another that already exists related to fixing errors related to spreading 30% AMI units across bedroom sized, in the section that governs application changes.

Section 10322(h)(5)

(5) Identification of project participants. For purposes of this Section all of the following project participants, if applicable will be considered to be members of the Development Team. The application must contain the company name and contact person, address, telephone number, and fax number of each:

(A) developer;
(B) general contractor;
(C) architect;
(D) attorney
(E) tax professional;
(F) property management company;
(G) consultant;
(H) market analyst and/or appraiser; and
(I) CNA consultant.

If any members of the Development Team have not yet been selected at the application filing deadline, each must be named and materials required above must be submitted at the 180 or 194 day deadline described in Section 10325(c)(~~8~~7).

Reason: The proposed changes include a conforming change to reflect the renumbering of Section 10325(c)(8) and a correction of the readiness deadlines.

Section 10322(h)(9)

(9) Appraisals. Appraisals are required for all rehabilitation applications except as noted in (A), for all competitive applications except for new construction projects that are on tribal trust land or that have submitted a third party purchase contract with, or evidence of a purchase from, an unrelated third party, 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. For purposes of this paragraph only, a purchase contract or sale with a related party shall be deemed to be a purchase contract or sale with an unrelated party if the applicant demonstrates that the related party is acting solely as a pass-through entity and the tax credit partnership is only paying the acquisition price from the last arms-length transaction, plus any applicable and reasonable carrying costs.

Reason: The current regulations allow new construction applications that "have" a third-party purchase contract or evidence of purchase from an unrelated third party to submit the contract or evidence of sale in lieu of an appraisal. Staff has always interpreted this language to require submittal of the contract or evidence with the application. Applicants have argued that having it in their own possession is sufficient. The proposed change clarifies that applicants must submit the purchase contract or evidence of purchase with the application if they want to be exempt from the appraisal requirement.

Staff proposes to eliminate the leveraging point category (see the discussion in Section 10325(c)(1)). The proposed changes to this section make a conforming change to delete the refence to competitive points for leveraging.

The proposed changes further provide that a purchase contract or sale with a related party shall be deemed to be a purchase contract or sale with an unrelated party if the applicant demonstrates that the related party is acting

solely as a pass-through entity and the tax credit partnership is only paying the acquisition price from the last arms-length transaction, plus any applicable and reasonable carrying costs. In such a case, an appraisal is not necessary because the land price was set through an arms-length transaction. Applicants seeking tiebreaker credit for donated land value must still submit an appraisal even if this situation exists.

Section 10322(h)(10)

(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.

Reason: Staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). This is a conforming change.

Section 10322(h)(21)

(21) Utility allowance estimates. Current utility allowance estimates consistent with 26 CFR Section 1.42-10. The applicant must indicate which components of the utility allowance schedule apply to the project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission (CEC), with any solar values for new construction or adaptive reuse determined from the ~~California Energy Commission's~~CEC's Photovoltaic Calculator and any solar values for existing residential buildings determined from the CEC's Photovoltaic Calculator or the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC. The CUAC estimate shall be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). 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. Use of CUAC is limited to (i) new construction projects, ~~and to~~ (ii) rehabilitation projects applying for tax credits, and (iii) existing tax credit projects with new photovoltaics installed through the Multifamily Affordable Solar Housing (MASH) program or a solar program administered by a municipal utility or joint powers authority, which~~awards that~~ offsets tenants' ~~area~~ electrical load. All CUAC utility allowances require a quality control review and approval. CTCAC will submit modeled CUAC utility allowance estimates to a quality control reviewer and shall establish a fee to cover the costs of this review. Existing tax credit projects and rehabilitation projects converting to the CUAC shall provide tenants at least 90 days prior to the effective date with an informative summary about the current utility allowance and the proposed CUAC allowances, including notice of any actual rent increase to the tenant. Such projects shall also provide CTCAC with the actual rent increases in the first year's CUAC update submittal. For existing projects requesting CUAC utility allowances, cash flow is limited to 15.0% or less of residential income and a debt service coverage ratio of 1.50 or less, as verified by audited financial statements.

Reason: The California Utility Allowance Calculator (CUAC) is a tool to establish utility allowances that are project-specific based on the energy efficiency and energy generation of a project. The current regulations restrict use of the CUAC to new construction projects and to those projects in the existing TCAC portfolio that receive Multifamily Affordable Solar Housing (MASH) program awards and offset tenant loads. The regulations also require submittal of a CUAC to a TCAC-contracted quality control review at placed in service.

The proposed changes expand the universe of projects that may use the CUAC to 1) all rehabilitation projects seeking a new or renewed reservation of tax credits (i.e., both resyndication and first-time syndication projects), and 2) projects in the existing TCAC portfolio with new photovoltaics installed through a municipal utility or joint powers authority solar program, which offset tenant loads. Allowing these projects to use the CUAC will facilitate greater energy efficiency and the increased usage of on-site energy generation. The CUAC is designed to set a more accurate project-specific utility allowance for more sustainable projects (all rehabilitation projects must improve energy efficiency by at least 10%), which in turn increases the portion of the gross rent

that can be leveraged to finance improvements. The tenants continue to benefit from a utility allowance that is appropriate to their units.

Like projects that may already use the CUAC, the proposed regulations require all projects using the CUAC to submit the CUAC at placed in service for quality control review and pay a fee to cover the cost. While not a requirement, TCAC highly encourages rehabilitation projects seeking tax credits also to submit their inputs relevant to the existing conditions of the building for quality control review at application (for which the cost will also be charged to the applicant but which will not delay the review of the application or reservation of credits). This will avoid a situation in which the applicant makes design and expenditure decisions based on projected CUAC allowances that later prove to be inaccurate as a result of the PIS quality control review. It is TCAC's experience that the assumption selected for the existing building conditions often require adjustment. In the absence of a quality control review at application, the applicant bears full risk for a change in the CUAC allowances based on the PIS quality control review. TCAC will not approve CUAC allowances other than those substantiated by the quality control review.

Similarly, the proposed changes expand the requirement to notify tenants in advance of the utility allowance change and the requirement to report actual rent increases to TCAC to rehabilitation projects. The proposed changes do not subject rehabilitation projects seeking tax credits to the cash flow requirements as these projects already must meet the cash flow parameters of Section 10327(g)(6).

Lastly, the proposed changes allow CUAC projects with existing buildings (i.e., rehabilitation projects seeking tax credits and existing building with awards from the specified programs) to use either of two calculators to determine solar values: 1) the CEC Photovoltaic Calculator already cited, and 2) the Expected Performance Based Buydown (EPBB) calculator, in which case the applicant shall use monthly scalars to be determined by TCAC to convert annual values to monthly values. The EPBB calculator is not appropriate for new construction projects.

Section 10322(h)(23)

(23) Cash flow projection. A 15-year projection of project cash flow. Separate cash flow projections shall be provided for residential and commercial space. If a capitalized rent reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized rent reserve is limited to Special Needs projects~~, SRO projects~~, projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and Section 8 project based projects.

Reason: Staff proposed to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). This is a conforming change.

Section 10322(h)(34)

(34) Community service facility. An applicant requesting basis for a community service facility shall submit a third party tax attorney's opinion stating that the community service facility meets the requirements of IRC Section 42(d)(4)(C). CTCAC may use its discretion in determining whether the community service facility meets the qualifications.

Reason: Federal tax law allows projects in Qualified Census Tracts to claim basis for "community service facilities" that serve non-tenants who are primarily individuals with incomes less than 60% of the area median

income. These facilities can vary greatly in form, purpose, and intended beneficiaries, and federal law provides little guidance on what qualifies. The proposed changes require an applicant seeking to claim basis for a community service facility to provide a third party tax attorney's opinion that the proposed facility is eligible. Staff will give deference to this opinion but, as the allocator of the tax credits, reserves the right to deny basis for a proposed facility if staff is not convinced of eligibility.

Section 10322(h)(35)

(35) Mixed housing types. An applicant proposing a project to include senior housing in combination with non-senior housing shall provide a third party legal opinion stating that the project complies with fair housing law.

Reason: On occasion, TCAC sees projects seeking to designate certain portions of a project as senior housing and other portions as non-senior housing. This raises a host of fair housing concerns, which TCAC is not qualified to resolve. As a result, the proposed changes require an applicant seeking to mix senior and non-senior housing within a project to provide a third party legal opinion stating that the project complies with fair housing law.

Section 10322(i)(17)

(17) all documentation required pursuant to the Compliance and Verification requirements of Section 10325(c)(~~6~~5), if applicable;

Reason: This is a conforming change to reflect the renumbering of Section 10325(c)(6).

Section 10322(i)(18)

(18) evidence that the project is in compliance with any points received under Section 10325(c)(~~9~~8);

Reason: This is a conforming change to reflect the renumbering of Section 10325(c)(9).

Section 10322(j)

(j) ~~Re-application.~~ Revisions to 4% Reservations at Placed in Service. Proposals submitted under Section 10326 of these regulations do not require new applications for ~~minor~~ changes in costs or Tax Credits alone. Committee staff will ~~normally~~ adjust the Credit amount ~~for projects requesting Tax Credit increases under Section 10326 only at one time,~~ when the placed-in-service package is received and reviewed ~~by Committee staff. However, reapplication is required and applications will be reviewed if the Executive Director deems it necessary to have the Committee take formal action due to substantial changes or an extraordinary increase in Tax Credits requested. "Substantial changes" for this purpose will mean any significant~~The Executive Director shall approve any change in unit mix after reservation~~, number of buildings or building layout, or development cost increases greater than 20% of the original costs, and an "extraordinary increase" in Tax Credits will mean an increase greater than 15% of the original reservation amount~~. It is the applicant's responsibility to notify CTCAC of any ~~such~~ unit mix changes ~~and when CTCAC is notified accordingly, new applications may be required~~. ~~Reapplications~~ Projects at placed-in-service that are requesting additional Tax Credits will be required to submit a fee equal to one percent (1%) of the increase from reservation in the ~~first year's credit amount~~annual

federal tax credits allocated. ~~For all other projects, except in unusual, extreme cases such as fire, or act of God, where a waiver of this subsection is permitted by the Executive Director, a re-application for a development that has already received a Tax Credit reservation or allocation shall be evaluated as an entirely new application, and shall be required to return its previously reserved or allocated Tax Credits prior to or simultaneously with its new application. All re-applications shall be subject to negative points under Section 10325(c)(3) if applicable (for example, a project that does not meet the original placed in service deadline would receive negative points hereunder). Re-applications shall be subject to the regulations in effect at the time the re-application is submitted. For projects submitted under Section 10326 of these regulations that are requesting additional Tax Credits, the basis limits to be used in the final underwriting shall be those in effect during the year the development is placed in service.~~

Reason: The current regulations require re-application if after reservation a 4% tax credit project experiences a significant change in unit mix, number of buildings or building layout, if costs increase by more than 20%, or if the tax credit request increases by more than 15%. The applicant is required to return his or her previous reservation, the application is reviewed from scratch, and the project is subject to any new regulation requirements that may have been adopted in the interim. They give the Executive Director discretion to submit the re-application to the Committee for a new approval, which he has in every case.

This section creates a large amount of uncertainty for developers very late in the development process. Construction is already complete, the developer and investors have already expended the money for construction in the anticipation of receiving tax credits, and the approval of the re-application is discretionary. Moreover, the project may now be subject to new regulatory requirements even though construction is complete. Given the extreme consequences to a denial of a re-application, staff has always recommended approval, and to date the Committee has approved each one. This creates extra work for no apparent benefit. Moreover, the regulations contain no standard for when the Committee should approve or deny a re-application.

The proposed changes eliminate the re-application process. The proposed changes retain the authority for staff at placed in service to adjust the credit amount to reflect the final costs and basis and the requirement for applicants to pay the standard fee on the increased credit amount. The changes also retain the requirement for the applicant to seek approval for unit mix changes but allow the Executive Director to grant this approval. However, increases in costs and credits would no longer subject a project to the return of the original reservation and the uncertainty of a discretionary review. Staff notes that TCAC has no high-cost test for 4% projects (either at application or placed in service) but that such projects are subject to the CDLAC bond allocation limits. To the extent a project's costs increase to the point that the project can no longer pass the 50% test, the applicant will have to seek discretionary approval of an increase in bond authority, which is a rationed resource, and the bond allocation limits will apply.

Section 10325(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 Low-Income ~~units~~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.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed change to this section clarifies that TCAC will score scattered site projects of 20 or more low-income units proportionately in the site and service amenities categories. Staff believes this is the appropriate universe of units given that services are only relevant to the low-income units.

Section 10325(c)(1)

~~(1) Leveraging~~

~~(A) Cost efficiency. A project application whose total eligible basis is below the maximum permitted threshold basis limits after permitted adjustments, shall receive 1 point for each percent by which its eligible basis is below the maximum permitted adjusted threshold basis limit. In calculating the eligible basis under this scoring factor, CTCAC shall use all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the application form itself or by a letter from the development team's third party tax professional.~~

~~(B) Credit reduction. A project that reduces the amount of Tax Credits it is requesting shall receive 1 point for each percent that its qualified basis is reduced. In order to receive points in this category, committed funds must be part of the permanent sources for the development and remain in place for at least ten years.~~

~~(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. 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 consistent with the guidelines in Section 10322(h)(9). Building values shall be considered only 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 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.~~

~~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.~~

~~On or before December 31, 2017, 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 40 percent (40%) AMI levels (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 operation 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.~~

~~A maximum of 20 points shall be available in combining the cost efficiency, credit reduction, and public funds categories.~~

Reason: The proposed changes eliminate the leveraging point category, which provides points for cost efficiency, credit reduction, and public funds. Staff believes that this point category largely overlaps with the current tiebreaker and therefore has very little additional value.

Almost all applicants score their points in this category through public funds, for which they are already heavily incentivized to obtain for tiebreaker purposes. Eliminating this point category will not change that incentive.

Staff very rarely sees applications seeking points for credit reduction. In any case, this also overlaps with the tiebreaker in that the second tiebreaker factor rewards projects for reducing their basis request, which has the same result as a credit reduction. Moreover, there appears to be confusion among applicants as to the difference between a credit and a basis reduction, which elimination of this point category will resolve.

In a few cases, projects receive points for cost efficiency but generally only if they cannot achieve maximum points through public funds. This creates an odd situation in which those projects with less public funds are effectively forced into cost efficiency when their competitors are not. Staff believes that the cost efficiency mechanism now built into the developer fee calculation and that affects all 9% tax credits applicants equally is a fairer and ultimately more effective means to incentivize cost efficiency.

Whereas this section defines public funds and public funds remain a key component of the tiebreaker, staff proposes to move the definitional language to the tiebreaker Section 10325(c)(10) [to become (c)(9)].

Section 10325(c)(2)-(10) [Changes beyond the numbering are listed separately below]

(~~2~~1) General Partner/Management Company Characteristics.

(~~3~~2) Negative points.

(~~4~~3) Housing Needs.

(~~5~~4) Amenities beyond those required as additional thresholds

(~~6~~5) Sustainable building methods.

(~~7~~6) Lowest Income in accordance with the table below

(~~8~~7) Readiness to Proceed.

(~~9~~8) Miscellaneous Federal and State Policies

(~~10~~9) Tie Breakers

Reason: Staff proposes to eliminate the leveraging point category (see the discussion in Section 10325(c)(1)). The proposed changes to this section renumber the remaining point categories.

Section 10325(c)(2) [Will become 10325(c)(1)]

(~~2~~1) General Partner/Management Company Characteristics.

No one general partner, party having any fiduciary responsibilities, or related parties will be awarded more than 15% of the Federal Credit Ceiling, calculated as of February first during any calendar year unless imposing this requirement would prevent allocation of all of the available Credit Ceiling.

(A) General partner experience. To receive points under this subsection for projects in existence for over 3 years, the proposed general partners, or a key person within the proposed general partner organization, must meet the following conditions:

(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 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

(ii) General partners with fewer than two (2) active California Low Income Housing Tax Credit projects in service more than three years, and general partners for projects applying through the Nonprofit or Special Needs set-aside with no active California Low Income Housing Tax Credit projects in service more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects in service more than three years and which itself earns a minimum total of two (2) points at the time of application.

(iii) Tribal applicants may contract with a developer who will not be a general partner and receive points commensurate with the developer's experience pursuant to clauses (i) and (ii). The contract shall be in effect at least until the issuance of 8609 tax forms. Tribal applicants exercising this option, including the option in the next paragraph, shall also contract for asset management for at least the term of the 15-year federal compliance period with an entity that has asset managed at least two Low-Income Housing Tax Credit projects for at least three years.

For purposes of this clause only, a developer may include an entity pre-approved by CTCAC that has developed but not owned the requisite number of projects described in (i) and that provides the certification from a third party certified public accountant described above for the projects for which experience points are requested. If the projects for which the entity requests experience points do not include two (2) active California Low Income Housing Tax Credit projects in service more than three years, the applicant shall contract with a bona-fide management company pursuant to clause (ii). For this purpose only, "develop" shall mean developing the project scope and timeline, securing financing, hiring or performing the services of a general contractor, and overseeing completion of construction and placement in service as well as asset managing the project for at least three years after placed in service. When seeking pre-approval the entity shall provide copies of contracts demonstrating that the standards have been met.

In applying for and receiving points in this category, applicants assure that the property shall be operated by a general partner in conformance with Section 10320(b).

(B) Management Company experience. To receive points under this subsection, the property management company must meet the following conditions. To obtain points for projects previously managed, the ending date of the property management role must be no more than 10 years from the application deadline. In addition, the property management experience with a project shall not pre-date the project's placed-in-service date.

(i) 6-10 projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 2 points

11 or more projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 3 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:

2-3 Special Needs projects managed over 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the special needs projects 2 points

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

Alternatively, a management company that provides evidence that the agent to be assigned to the project (either on-site or with management responsibilities for the site) has been certified prior to the application deadline pursuant to a low income housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee, may receive 2 points. These points may substitute for other management company experience but will not be awarded in addition to such points.

(ii) Management companies 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.

When contracting with a California-experienced property management company under the terms of paragraph (A)(ii) or (B)(ii) above, the general partner or property co-management entity must obtain training in: project operations, on-site certification training in federal fair housing law, and manager certification in IRS Section 42 program requirements from a CTCAC-approved, nationally recognized entity. Additionally, the experienced property management agent or an equally experienced substitute, must remain for a period of at least 3 years from the placed-in-service date (or, for ownership transfers, 3 years from the sale or transfer date) to allow for at least one (1) CTCAC monitoring visit to ensure the project is in compliance with IRC Section 42. Thereafter, the experienced property manager may transfer responsibilities to the remaining general partner or property management firm following formal written approval from CTCAC. In applying for and receiving points in these categories, applicants assure that the property shall be owned and managed by entities with equivalent experience scores for the entire 15-year federal compliance and extended use period, pursuant to Section 10320(b). The experience must include at least two (2) Low Income Housing Tax Credit projects in California in service more than 3 years.

Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. For points to be awarded in subsection (B), an enforceable management agreement executed by both parties for the subject application must be submitted at the time of application. “Projects” as used in subsections (A) and (B) means multifamily rental affordable developments of over 10 affordable units that are subject to a recorded regulatory agreement, or, in the case of housing on tribal lands, where federal HUD funds have been utilized in affordable rental developments. General Partner and Management Company experience points may be given based on the experience of the principals involved, or on the experience of municipalities or other nonprofit entities that have experience but have formed single-asset entities for each project in which they have participated, notwithstanding that the entity itself would not otherwise be eligible for such points. For qualifying experience, “principal” is defined as an individual overseeing the day-to-day operations of affordable rental projects as senior

Reason: The current regulations generally limit general partner experience points to entities that will have a general partner (i.e., ownership) interest in the project. In recognition of the sovereign status of Native American tribes, Section 10315(c)(2) governing the Native American apportionment contains the sole exception to this rule in that it allows tribal applicants under the apportionment to contract with an entity receiving general partner experience points, as opposed to bringing the entity into the ownership structure. This exception is not available to tribal applicants outside of the Native American apportionment. The proposed changes move the contracting exception for tribal applicants from the Native American apportionment section to the general partner experience section and allow any tribal applicant, within or outside the apportionment, to contract with experienced general partner entities. The proposed changes further clarify that the contract with the entity receiving general partner experience points must be in effect at least until the issuance of 8609 tax forms and require such applicants also to contract for asset management for at least the term of the 15-year federal compliance period with an entity that has asset managed at least two Low-Income Housing Tax Credit projects for at least three years. The asset manager may be the same entity as the one receiving general partner experience points, and a single contract may cover both the development and asset management functions.

For the four-year history of the Native American apportionment, the regulations have required tribal applicants (first in all cases and later only if the Tribe could not score minimum general partner experience points on its own) to partner with an entity receiving general partner experience points. In practice, however, TCAC failed to enforce that rule and reserved tax credits for Tribes who have partnered with a consulting firm that, while experienced nationally in assisting Tribes develop tax credit housing properties, does not qualify for general partner experience points as a result of its practice of not taking an ownership role in the projects it works on. To date, this arrangement appears to be working in that the tribal projects TCAC has funded have progressed satisfactorily. The proposed changes seek to normalize this or similar partnership arrangements for tribal projects only. They allow Tribes to contract with a developer, if pre-approved by TCAC, who has the development and asset management experience otherwise required for general partner experience points but for the ownership interest. Specifically, they require the developer to have developed the requisite number of projects for which the application requests general partner experience points and to provide the standard third party certified public accountant certification for those projects. They further clarify that if the developer's projects do not include at least two California tax credit projects in service more than three years, the applicant shall also contract with a bona-fide management company, as required for all other applicants. Lastly, the proposed changes, for this purpose only, define "develop" to mean developing the project scope and timeline, securing financing, hiring or performing the services of a general contractor, and overseeing completion of construction and placement in service as well as asset managing the project for at least three years after placed in service. The entity seeking pre-approval shall document compliance with the experience requirements.

The proposed changes also clarify that each project for which experience points are requested must contain at least ten affordable units subject to a regulatory agreement.

Section 10325(c)(3)(A) [Will become 10325(c)(2)(A)]

(A) failure to utilize committed public subsidies identified in an application, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control~~. An exception to this subsection is made for 2015 competitive tax credit applications with Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) financing based on a recommendation by state program staff and accepted with the tax credit application, but ultimately not receiving a VHHP or AHSC award~~;

Reason: The proposed changes delete obsolete language related to the 2015 award rounds.

Section 10325(c)(3)(L) [Will become 10325(c)(2)(L)]

(L) failure to promptly notify CTCAC of a property management change or changing to a management company of lesser experience contrary to Section 10325(c)(~~2~~1)(B);

Reason: The proposed changes reflect the renumbering of Section 10325(c)(2).

Section 10325(c)(4) [Will become 10325(c)(3)]

(**4**3) Housing Needs. (Points will be awarded only in one category listed below except that acquisition and/or rehabilitation Scattered Site Projects 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 Low-Income ~~units~~ 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~~9) 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

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed changes to this section clarify that, when rehabilitation scattered site projects are scored proportionately, the scoring will be relative to the percentage of low-income units at each site. Staff believes that this is the appropriate universe of units because only low-income units are relevant to a project's housing type.

The proposed changes reflect the renumbering of this paragraph and of Section 10325(c)(10).

Staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). The proposed changes to this section include a conforming change to delete the reference to SRO housing projects.

Section 10325(c)(5)(A)1. [Will become 10325(c)(4)(A)1.]

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 1/3mile 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~~Low-Income Unit for at least 15 years.

At least one pass per ~~Tax Credit unit~~Low-Income Unit 3 points
At least one pass per each 2 ~~Tax Credit units~~Low-Income 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.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed changes to this section replace the to-be-deleted term "rent-restricted unit" with the remaining term "low-income unit." The changes also clarify that, when projects are scored for transit pass points, the scoring will relate to passes per low-income unit. Staff believes that this is the appropriate universe of units because transit passes are relevant only to the low-income units.

Section 10325(c)(5)(A)4. [Will become 10325(c)(4)(A)4.]

4. The site is within 1/2 mile of a full scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold (1 mile for Rural set-aside projects). A large multi-purpose store containing a grocery section may garner these points if the application contains the requisite interior measurements of the grocery section of that multipurpose store. The "grocery section" of a large

multipurpose store is defined as the portion of the store that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 5 points

or within 1 mile (2 miles for Rural set-aside projects) 4 points
or within 1.5 miles (3 miles for Rural set-aside projects) 3 points

The site is within 1/4 mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat, and fresh produce are sold (1/2 mile for Rural Set-aside projects). A large multi-purpose store containing a grocery portion may garner these points if the application contains interior measurements of the grocery section of that multi-purpose store. The "grocery section" of a large multipurpose store is defined as the portion of the store primarily devoted to food stuffs that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 4 points

or within 1/2 mile (1 mile for Rural Set-aside projects) 3 points

The site is within 1/2 mile of a weekly farmers' market ~~certified by the California Federation of Certified Farmers' Markets,~~on the list of Certified Farmers' Markets maintained by the California Department of Food and Agriculture and operating at least 5 months in a calendar year 2 points

or within 1 mile 1 point

Reason: Staff learned that the California Federation of Certified Farmers' Markets no longer certifies farmers' markets but that the California Food and Agriculture Department instead maintains a list of certified farmers' markets. The proposed changes requires projects seeking points for proximity to a farmer's market to be on the department's list.

Section 10325(c)(5)(A)5. [Will become 10325(c)(4)(A)5.]

5. For a development wherein at least 25 percent (25%) of the ~~residential~~ Low-Income U~~u~~nits shall be three-bedroom or larger units, the site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school, (an additional 1/2 mile for each public school type for Rural set-aside projects) and that the site is within the attendance area of that school. Public schools demonstrated, at the time of application, to be under construction and to be completed and available to the residents prior to the housing development completion are considered in place at the time of application for purposes of this scoring factor. 3 points

or within an additional 1/2 mile for each public school type (an additional 1 mile for Rural set-aside projects) 2 points

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed changes to this section clarify that, for points related to school proximity, at least 25% of the project's low-income units must be 3-bedroom units. Staff believes that this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10325(c)(5)(A)7. [Will become 10325(c)(4)(A)7.]

7. For a Special Needs ~~or SRO~~ development, the site is located within 1/2 mile of a facility that operates to serve the population living in the development 3 points

or within 1 mile 2 points

Reason: Staff proposed to fold the SRO housing type into the Special Needs housing type. The proposed changes to this section contain a conforming change.

Section 10325(c)(5)(A)10. [Will become 10325(c)(4)(A)10.]

10. High speed internet service, with a minimum average download speed of ~~768 kilobits~~1.5megabits/second must be made available to each Low-Income U~~u~~nit for a minimum of 15 years, free of charge to the tenants, and available within 6 months of the project's placed-in-service date. Will serve letters or other documentation of internet availability must be documented within the application. If internet is selected as an option in the application it must be provided even if it is not needed for points. 2 points (3 points for Rural projects)

Reason: The proposed changes update the speed at which internet service is considered high-speed from 768 kilobits/second to 1.5 megabits/second. The latter speed is consistent with the standard in the PUC's California Advanced Services Fund Program.

Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed changes to this section clarify that, for points related to internet access, the services shall be available to all low-income units. Staff believes that this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10325(c)(5)(A)11. [Will become 10325(c)(4)(A)11.]

11. The project is a new construction large family project and the site is located in a census tract designated on the TCAC/HCD Opportunity Area Map as:

Highest Resource 8 points
High Resource 4 points

Reason: Following up on last year's regulation discussions and the spring forums TCAC co-hosted with HCD, staff proposes a number of measures to increase choice and access to place-based opportunity for residents of large family developments (see the background on the issue generally and related changes in Section 10325(c)(10) [will become (c)(9)] and also the related changes in 10315(h)).

The current regulations allow project to obtain up to 15 points for proximity to various site amenities that benefit residents. The proposed changes add a point option to this menu for new construction large family projects in high resource areas. Such projects located in a highest resource area would receive 8 points and projects in high resource areas 4 points. Staff believes that the location of a large family new construction project in a higher resource area is in and of itself a benefit to tenants and worthy of points. Moreover, this point option addresses the concern that many high-opportunity locations may be less dense, in which case the

current site amenity point system may act as a barrier to TCAC awarding credits to family projects in such areas. In essence, the proposed change allows for the quality of resident opportunities to partially replace the quantity of amenities nearby. Staff believes, however, that family projects in higher resource areas should continue to be near some level of specific amenities, hence the limitation of eight points, or roughly 1/2 of the total, for a highest resource location. The point scores are based in part on the thinking that a project in the highest resource area with the maximum transit amenity points should receive the maximum point score.

The proposed change uses the TCAC/HCD Opportunity Area Map to establish the resource rating of a census tract. Please see the discussion of the mapping tool in Section 10325(c)(10). Staff notes that one of the main improvements of the new mapping tool over the UC Davis maps referenced last year is that resource areas are determined regionally, as opposed to statewide.

Section 10325(c)(5)(B) [Will become 10325(c)(4)(B)]

(B) Projects that provide high-quality services designed to improve the quality of life for tenants are eligible to receive points for service amenities. Services must be appropriate to meet the needs of the tenant population served and designed to generate positive changes in the lives of tenants, such as by increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.

Except as provided below, in order to receive points in this category, physical space for service amenities must be available when the development is placed-in-service. Services space must be located inside the project and provide sufficient square footage, accessibility and privacy to accommodate the proposed services.

The amenities must be available within 6 months of the project's placed-in-service date. Applicants must commit that services shall be provided for a period of 15 years.

All services must be of a regular and ongoing nature and provided to tenants free of charge (except for day care services or any charges required by law). Services must be provided on-site except that projects may use off-site services within 1/2 mile of the development (1½ miles for Rural set-aside projects) provided that they have a written agreement with the service provider enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. All organizations providing services for which the project is claiming service amenities points must have at least 24 months experience providing services to one of the target populations to be served by the project.

No more than 10 points will be awarded in this category.

For Large Family, Senior, and At-Risk Projects, amenities may include, but are not limited to:

[Changes to items 1. through 6. are listed separately below.]

For Special Needs and SRO projects, amenities may include, but are not limited to:

[Changes to items 7. through 12. are listed separately below.]

Special needs projects with less than 75% special needs units shall be scored proportionately in the service amenity category based upon (i) the services provided to special needs and non-special needs units, respectively; and (ii) the percentage of units represented by special needs and non-special needs units, respectively.~~For projects containing a combination of Special Needs units with Senior or Large Family units, applicants shall choose to provide services either as described in items 1 through 6, or 7 through 12. Applicants must~~ Special needs projects with 75% or more but less than 100% special needs units shall demonstrate that all tenants will receive an appropriate level of services.

Items 1 through 12 are mutually exclusive. One proposed service may not receive points under two different categories, except in the case of proportionately-scored scored services pursuant to the previous paragraph.

Documentation must be provided for each category of services for which the applicant is claiming service amenities points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state the annual dollar value of the services; commit that services will be provided for a period of at least one (1) year; commit that services will be available to tenants of the project free of charge (except for child care services or other charges required by law); name the project to which the services are being committed. Organizations providing in-kind or donated service must estimate the value of those services. Volunteer time may be valued at $10 per hour.

Documentation shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead.

For projects claiming points for items 1, 2, 7, or 8, a position description must be provided. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category (items 1 through 12).

Applications must include a services sources and uses budget clearly describing all anticipated income and expenses associated with the services program and that aligns with the services commitments provided (i.e. contracts, MOUs, letters, etc.). Applications shall receive points for services only if the proposed services budget adequately accounts for the level of service. The budgeted amount must be reasonably expected to cover the costs of the proposed level of service. If project operating income would fund service amenities, the application's Service Amenities Sources and Uses Budget must be consistent with the application's Annual Residential Operating Expenses chart. Services costs contained in the project operating budget are not to be counted toward meeting CTCAC's minimum operating expenses required by Section 10327(g)(1).

All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals may not be substituted for organizational experience.

Evidence that adequate physical space for services will be provided must be documented within the application.

Reason: The current regulations require projects containing a combination of Special Needs units with Senior or Large Family units to demonstrate that all tenants will receive an appropriate level of services. While it is clear that all tenants must receive some level of appropriate services, the standard is vague as to how much for the secondary housing type residents. With the proposed change in Section 10325(g)(4) [to become (g)(3)] to reduce the threshold for special needs units in special needs projects from 50% to 25% for housing type purposes, this issue will likely arise more often. The proposed changes to this section replace the vague language with language requiring TCAC to proportionately score services in special needs projects with less than 75% special needs units. This will ensure that all residents of mixed projects will receive appropriate

services at an appropriate level. Similar to the unit size requirements for special needs developments, projects with 75% or more special needs units are essentially treated as 100% special needs projects.

The proposed changes also clarify that, when projects are proportionately scored, a single service that is eligible for points for both special needs and non-special needs residents may receive points within each proportion.

Section 10325(c)(5)(B)5. [Will become 10325(c)(4)(B)5.]

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 25% of Low-Income U~~u~~nits are three bedrooms or larger). 5 points

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed change to this section clarifies that, for points related to licensed child care, at least 25% of the project's low-income units must be 3-bedroom units. Staff believes that this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10325(c)(5)(B)6. [Will become 10325(c)(4)(B)6.]

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 25% of Low-Income U~~u~~nits 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

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed change to this section clarifies that, for points related to after school programs, at least 25% of the project's low-income units must be 3-bedroom units. Staff believes that this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10325(c)(5)(B) For Special Needs and SRO projects [Will become 10325(c)(4)(B) For Special Needs and SRO projects]

(B) For Special Needs ~~and SRO~~ projects, amenities may include, but are not limited to:

Reason: Staff proposed to fold the SRO housing type into the Special Needs housing type. This is a conforming change.

Section 10325(c)(5)(B)11. [Will become 10325(c)(4)(B)11.]

11. 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 Low-Income ~~units~~ Units are three bedrooms or larger). 5 points

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed change to this section clarifies that, for points related to licensed child care, at least 25% of the project's low-income units must be 3-bedroom units. Staff believes that this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit. The change to 25% is consistent with standard for large family projects articulated in other sections of the regulations.

Section 10325(c)(5)(B)12. [Will become 10325(c)(4)(B)12.]

12. 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 Low-Income ~~units~~ 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

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed change to this section clarifies that, for points related to after school programs, at least 25% of the project's low-income units must be 3-bedroom units. Staff believes that this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit. The change to 25% is consistent with standard for large family projects articulated in other sections of the regulations.

Section 10325(c)(6)(E) [Will become 10325(c)(5)(E)]

(E) Additional Rehabilitation Project Measures. For projects receiving points under section 10325(c)(~~6~~5)(D) applicants may be awarded points for committing to developing, and/or managing, their project with one or more of the following:

Reason: The proposed change reflects the renumbering of Section 10325(c)(6).

Section 10325(c)(6)(G) [Will become 10325(c)(5)(G)]

(G) Compliance and Verification:

1. For preliminary reservation applications, applicants must include a certification from the project architect that the sustainable building methods of Section 10325(c)(~~6~~5) have been incorporated into the project, if applicable. For rehabilitation applications incorporating the requirements of subsections ~~(A) and~~ (C) Green Communities or WELL option, and for all applications incorporating the requirements of subsections (B), (D), ~~and~~ or (E)1.a above, applicants must include a completed Sustainable Building Method Workbook.

2. For placed-in-service applications to receive points under section 10325(c)(~~6~~5)(A) and section 10325(c)(~~6~~5)(C), the applicant must submit the appropriate required third party verification documentation showing the project has met the requirements for the relevant program.

3. For new construction project placed-in-service applications to receive points under section 10325(c)(~~6~~5)(B)(i), the applicant must submit a completed Sustainable Building Method Workbook and the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards. This compliance form must be the output from the building(s) modeled "as built" and reflect all relevant changes that impact the building(s) energy efficiency that were made after the preliminary reservation application. The compliance form must be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Documentation for measures that require verification by California Home Energy Rating System (HERS) Raters must also be submitted.

4. New Construction placed-in-service applications for projects that received points under section 10325(c)(~~6~~5)(B)(ii), the applicant must submit a completed Sustainable Building Method Workbook, a completed CUAC analysis establishing the total tenant energy load, and documentation of the PV output using the CEC's PV Calculator. These compliance forms must reflect all relevant changes that impact building(s) energy efficiency that were made after the preliminary reservation application. The CUAC analysis and other required forms must be signed by a CABEC certified CEA. Documentation for the solar PV installation and other measures that require verification by California HERS Raters must also be submitted.

5. For rehabilitation project placed-in-service applications to receive points under section10325(c)(~~6~~5)(D), the applicant must submit a completed Sustainable Building Method Workbook and the energy consumption and analysis report from the appropriate performance module of CEC approved software, completed by a CABEC certified CEA, which shows the pre- and post- rehabilitation estimated TDV energy use demonstrating the required improvement. The pre-rehabilitation conditions shall be established using the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Protocols and reported using the CTCAC Existing Multifamily Assessment Report Template, signed by a qualified HERS Rater.

6. For rehabilitation project placed-in-service applications to receive points under section 10325(c)(~~6~~5)(E) the applicants must submit ~~a completed Sustainable Building Method Workbook and~~ the following documentation:

(i) For projects including photovoltaic generation that offsets tenant loads, the applicant must submit a completed Sustainable Building Methods Workbook, 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, or the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC, for purposes of determining the solar values to be input into the CUAC calculator.

(ii) For projects including photovoltaic generation that offsets common area load, the energy analyst shall provide documentation of the load serving the common area and the output calculations of the photovoltaic generation.

(iii) For sustainable building management practices, the applicant must submit a copy of the energy management and maintenance manual and submit the building commissioning plan drafted in accordance with the California Commissioning Collaborative's best practice

recommendations for existing buildings or the GreenPoint Rated Multifamily Commissioning requirements.

(iv) For sub-metered central hot water systems, the applicant must demonstrate compliance with CPUC regulations for hot water sub-metering and billing by submitting a copy of the Utility Service Agreement from project's local utility provider.

7. For placed in service applications to receive points under Section 10325(c)(~~6~~5)(F), the project architect, landscape architect, water system engineer, HERS Rater, GreenPoint Rater, 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 to meet the standards under normal conditions.

8. Failure to produce the appropriate documentation for (2) through (7) of this subsection may result in an award of negative points for the development team.

Reason: The proposed changes remove the requirement for projects seeking certain sustainability points to provide the Sustainable Building Methods Workbook. Specifically, new construction projects seeking Green Communities or WELL certification points (projects seeking points for other certification programs are already exempt) and a project seeking the additional rehabilitation project measures of subparagraph (E), except for photovoltaics offsetting tenant loads, would be exempt from submitting the workbook for points. Please note that this exemption is for point purposes only. A workbook may still be required for other purposes such as threshold basis limit increases.

In addition, the proposed changes allow projects with photovoltaics offsetting tenant loads to use either of two calculators to determine solar values: 1) the CEC Photovoltaic Calculator already cited, and 2) the Expected Performance Based Buydown (EPBB) calculator, in which case the applicant shall use monthly scalars to be determined by TCAC to convert annual values to monthly values.

The proposed changes also reflect the renumbering of Section 10325(c)(6).

Section 10325(c)(7)(A) [Will become 10325(c)(6)(A)]

(A) The "Percent of Area Median Income" category may be used only once. For instance, 50% of ~~Income Targeted Units to Total Tax Credit Units~~Low-Income Units at 50% of Area Median Income cannot be used twice for 100% at 50% and receive 50 points, nor can 50% of ~~Income Targeted Units to Total Tax Credit Units~~Low-Income Units at 50% of Area Median Income for 25 points and 40% of ~~Income Targeted Units to Total Units~~Low-Income Units at 50% of Area Median Income be used for an additional 20 points. However, the "Percent of ~~Income Targeted~~Low-Income Units" may be used multiple times. For example, 50% of ~~Targeted~~ Low-Income Units at 50% of Area Median Income for 25 points may be combined with another 50% of ~~Targeted~~ Low-Income Units at 45% of Area Median Income to achieve the maximum points. All projects must score at least 45 points in this category to be eligible for 9% Tax Credits.

Only projects competing in the Rural set aside may use the 55% of Area M~~m~~edian I~~i~~ncome column.

Lowest Income Points Table (maximum 50 points):

~~**Percent of Area Median Income**~~

~~**Percent of Income Targeted Units To Total Tax Credit Units (exclusive of mgr.'s unit)**~~	~~***55***~~	~~***50***~~	~~***45***~~	~~***40***~~	~~***35***~~	~~***30***~~
~~***80***~~				45	47.5	50
~~***75***~~				42.5	45	47.5
~~***70***~~				40	42.5	45
~~***65***~~			35	37.5	40	42.5
~~***60***~~			32.5	35	37.5	40
~~***55***~~			30	32.5	35	37.5
~~***50***~~		25*	27.5	30	32.5	35
~~***45***~~		22.5*	25	27.5	30	32.5
~~***40***~~	17.5*	20	22.5	25	27.5	30
~~***35***~~	15*	17.5	20	22.5	25	27.5
~~***30***~~	12.5*	15	17.5	20	22.5	25
~~***25***~~	10*	12.5	15	17.5	20	22.5
~~***20***~~	7.5*	10	12.5	15	17.5	20
~~***15***~~	5*	7.5	10	12.5	15	17.5
~~***10***~~	2.5*	5	7.5	10	12.5	15

Percent of Area Median Income

Percent of Low-Income Units	**55%**	**50%**	**45%**	**40%**	**35%**	**30%**
50%		25.0*	37.5			
45%		22.5*	33.8			
40%	10.0*	20.0	30.0			
35%	8.8*	17.5	26.3	35.0		50.0
30%	7.5*	15.0	22.5	30.0	37.5	45.0
25%	6.3*	12.5	18.8	25.0	31.3	37.5
20%	5.0*	10.0	15.0	20.0	25.0	30.0
15%	3.8*	7.5	11.3	15.0	18.8	22.5
10%	2.5*	5.0	7.5	10.0	12.5	15.0

* Available to Rural set-aside projects only

Reason: Due to different point increase rates across columns, the current lowest income table does not always give a lower score to a project that has a lower average AMI. In essence, some maximum scoring income mixes have a higher average AMI and are therefore financially more attractive than others. The outside LIHTC Working Group has suggested a revised table ensuring that each step on the table gives an applicant the same number of points for the same decrease in average affordability. Staff has reviewed the suggested table and believes it is fairer and will promote a more varied mix of incomes across projects. The proposed changes substitute the revised table for the current table. Staff acknowledges that that certain maximum scoring combinations from the current table would result in deeper targeting than under the proposed table but is also aware that applicants generally do not select those combinations. Instead, they select combinations from the current table that get maximum points with the highest average AMI. The revised table gives projects points commensurate with their decrease in average AMI. The proposed changes maintain the current 50 maximum from this table. Staff notes that projects may continue to earn an additional two points for serving 30% AMI households pursuant to the subsequent subparagraph of the regulations.

In addition, staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn) below). The proposed changes to this section substitute the term "low-income units" for "Income Targeted Units to Total Tax Credit Units (exclusive of manager units)," which is the same thing.

Section 10325(c)(7)(B) [Will become 10325(c)(6)(B)]

(B) A project that agrees to have at least ten percent (10%) of its Low-Income U~~u~~nits available for tenants with incomes no greater than thirty percent (30%) of area median, and to restrict the rents on those units accordingly, will receive two points in addition to other points received under this subsection. The 30% units must be spread across the various bedroom-count units, starting with the largest bedroom-count units (e.g. four bedroom units), and working down to the smaller bedroom-count units, assuring that at least 10% of the larger units are proposed at 30% of area median income. So long as the applicant meets the 10% standard project-wide, the 10% standard need not be met among all of the smaller units. The CTCAC Executive director may correct applicant errors in carrying out this largest-to-smallest unit protocol. (These points may be obtained by using the 30% section of the matrix.)

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that, with respect to points for lowest income units, 10% of the low-income units must serve families at 30% of AMI. Staff believes that this is the appropriate universe of units because income limits are relevant only to low-income units.

Section 10325(c)(8) [Will become 10325(c)(7)]

(~~8~~7) Readiness to Proceed. ~~15~~ 10 points will be available to projects that document items (A) through (~~C~~B) 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 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~~ 10 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 financing commitment, as defined in Section 10325(f)(3), for all construction financing~~, as evidenced by executed commitment(s) and payment of commitment fee(s)~~;

(B) evidence, as verified by the appropriate officials, that all 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.~~

For paragraph~~s~~ (B) ~~and (C) an~~ a final 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.

Reason: Staff proposes three changes to this section. First, the proposed changes eliminate readiness points for having all necessary public or tribal land use approvals, reducing the possible points in this category to 10. Because having all land use approvals is a threshold requirement pursuant to Section 10325(f)(4), these points are superfluous.

Second, the proposed changes conform the terms and definitions for an enforceable financing commitment in this section to those used Section 10325(f)(3). Under that latter section, an enforceable financing commitment must:

- be in writing, stating rate and terms, and in the form of a loan, grant or an approval of the assignment/ assumption of existing debt by the mortgagee;
- be subject only to conditions within the control of the applicant, but for obtaining other financing sources including an award of Tax Credits;
- have a term of at least fifteen years if it is permanent financing;
- demonstrate feasibility for fifteen years at the underwriting interest rate, if it is a variable or adjustable interest rate permanent loan; and,
- be executed by a lender other than a mortgage broker, the applicant, or an entity with an identity of interest with the applicant, unless the applicant is a lending institution actively and regularly engaged in residential lending; and
- be accepted in writing by the proposed mortgagor or grantee, if private financing.

Third, the proposed changes delete obsolete language related only to 2016 awards.

Section 10325(c)(9)(B) [Will become 10325(c)(8)(B)]

(B) Enhanced Accessibility and Visitability. Project design incorporates California Building Code Chapter 11(B) and the principles of Universal Design in at least half of the project's Low-Income U~~u~~nits by including:

[No changes to bullets or point score]

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that, with respect to points for enhance access and visitability, 50% of the low-income units must meet the standard. Staff believes that this is the appropriate universe of units because it is the low-income residents whom TCAC seems to benefit.

Section 10325(c)(9)(F) [Will become 10325(c)(8)(F)]

(F) Eventual Tenant Ownership. The project proposes to make Tax C~~c~~redit U~~u~~nits available for eventual tenant ownership and provides the information described in Section 10325(c)(~~7~~6) of these regulations. 1 point

Reason: The proposed changes reflect the renumbering of Section 10325(c)(7) and capitalize a defined term.

Section 10325(c)(10) [Will become 10325(c)(9)]

(~~10~~9) Tie Breakers

If multiple applications receive the same score, the following tie breakers shall be employed:

For applications for projects within single-jurisdiction regional competitions only (the City and County of San Francisco and the City of Los Angeles geographic apportionments), the first tiebreaker shall be the presence within the submitted application of a formal letter of support for the project from either the San Francisco Mayor's Office of Housing or the Los Angeles Housing + Community Investment Department respectively. Within those cities, and for all other applications statewide, the subsequent tiebreakers shall be as follows:

First, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, then the application will be skipped if there is another application with the same score and with a housing type goal that has not been met in the current funding round in the percentages listed in section 10315; and

Second, the highest of the sum of the following ~~two ratios~~:

(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 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.~~ Public funds. "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, local government fee reductions established in ordinance and not required by federal or state law that are available only to rental affordable housing for lower-income households and affordable ownership housing for moderate income households, 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 counted as public funds. 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 consistent with the guidelines in Section 10322(h)(9). Building values shall be considered only 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. For Tribal apportionment applications, land purchased with public funds shall not be eligible. 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.

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 tiebreaker 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 in spite of a debt service requirement. Further, 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. 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.

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.

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 40 percent (40%) AMI levels (30% AMI for Special Needs 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.

(ii) soft loans that meet the criteria described in ~~Section 10325(c)(1)(C)~~subparagraph (i) (except that terms shall be of at least 55 years), or grants, from unrelated non-public 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 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, s~~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)~~subparagraph (i), 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). The application shall include a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that the donation is from an unrelated entity and that the unrelated entity shall not receive any benefit from a related party to the project.

(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, the 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, t~~The numerator of projects of 50 or more newly constructed or adaptive reuse Tax Credit ~~units~~ Units shall be multiplied by a size factor equal to seventy five percent plus the total number of newly constructed or adaptively reused Tax Credit ~~units~~ Units divided by 200 (75% + (total new~~ly constructed~~ construction/adaptive reuse units/200)).

In the case of a new construction hybrid 9% and 4% tax credit development which meets all of the following conditions, the calculation of the size factor for the 9% application shall include all of the Tax Credit Units in the 4% application: (i) the 4% application shall have been submitted to CTCAC and CDLAC by the 9% application deadline; (ii) the 4% and 9% projects are simultaneous phases, as defined in Section 10327(c)(2)(C); (iii) the 4% application is eligible for maximum points under Sections 10325(c)(3), (4)(B), (5), and (6), except that the 4% application may be eligible for maximum points in the lowest income category in combination with the 9% project; and (iv) any amount of the combined 4% and 9% developer fees in cost that are in excess of the limit for the 9% project by itself pursuant to Section 10327(c)(2)(A) shall be deferred or contributed as equity to the projects. In the event that the 4% component of a hybrid project that receives an increase to its size factor pursuant to this paragraph is not placed in service within 6 months of the 9% component, both applicants shall be subject to negative points.

If the project's paid purchase price exceeds appraised value, the leveraged soft resources amount shall be discounted by the overage, unless the Executive Director has granted a waiver pursuant to Section 10327(c)(6)(B).

(B) One (1) minus the ratio of requested unadjusted eligible basis to total residential project development costs, with the resulting figure divided by three. For purposes of this tiebreaker paragraph only, requested unadjusted eligible basis shall be increased by the amount of any reduction to eligible basis that is less than or equal to the amount of leveraged soft resources, as described above but exclusive of donated land value, fee waivers, and the capitalized value of rent differentials attributable to

public rent or public operating subsidies~~the amount of private "tranche B" loans underwritten based upon rent differentials attributable to rent subsidies~~, committed to the project.

(C) A new construction large-family project shall receive a higher resource area bonus as follows based on the designation of the project's location on the TCAC/HCD Opportunity Area Map:

The project is non-rural and the project's census tract is a Highest Resource area	20 percentage points
The project is non-rural and the project's census tract is a High Resource area	10 percentage points
The project is rural and the project's census tract is a Highest Resource area	10 percentage points
The project is rural and the project's census tract is a High Resource area	5 percentage points

The resulting tiebreaker score must not have decreased following award or negative points may be awarded.

Reason: Staff proposes a number of changes to this section. First, whereas staff is recommending deletion of the leveraging point category (see the discussion in Section 10325(c)(1)), there is a need to move the definition of "public funds" that is located in the leveraging point category section but also used for tiebreaker purposes. The proposed changes import the definition wholesale, except for the deletion of obsolete language related to pre-2018 rounds, the deletion of a sentence only relevant to the point category, and the addition described in the next paragraph below.

Second, the current regulations provide tiebreaker credit for local government fee waivers. While not yet common, staff is aware of efforts to encourage local governments to enact statutory fee reductions for affordable housing, as opposed to waivers which tend to be ad hoc and discretionary. The proposed changes clarify that fee reductions via ordinance would also receive tiebreaker credit, provided that the reductions under the local ordinance are limited to rental affordable housing for lower-income households and affordable ownership housing for moderate income households. To the extent that all or most housing projects receive a fee reduction, staff believes that is more akin to resetting the level of fees than a waiver.

Third, the current regulations require applicants seeking tiebreaker credit for soft loans or grants from unrelated non-public parties to provide, among other things, a certification from an independent CPA or independent tax attorney that the leveraged soft resource is from an unrelated non-public entity and that the unrelated non-public entity shall not receive any benefit from a related party to the project. The current regulations attach similar conditions to the donation of land from a non-public entity but do not require submittal of any certification. The proposed changes require an applicant seeking tiebreaker credit for donated land from a non-public entity to provide a certification from an independent CPA or independent tax attorney that the donation is from an unrelated entity and that the unrelated entity shall not receive any benefit from a related party to the project.

Fourth, the current regulations provide for a tiebreaker benefit known as the size factor for new construction projects with more than 50 tax credit units. The proposed changes clarify that adaptive reuse projects are also eligible for the size factor benefit. Staff believes it is appropriate to encourage the same economies of scale when creating new housing units from an existing non-residential structure.

Fifth, The proposed changes also, for "hybrid" developments that meet specified criteria, include in the size factor of the 9% project any tax credit units in the 4% tax credit application. In the last few years, TCAC has approved a number of applications in which two separate projects, one with 9% credits and the other with 4%

credits, are located on the same site or even in the same building. These developments are known as hybrid developments. [Note: in 2016, TCAC also allowed projects that had already received a 9% award to convert to a hybrid approach. Such after the fact conversion is no longer allowed. Henceforth, hybrid developments must apply as such again.] While hybrid applicants to date have often been forced into the situation by the fact that a single 9% project would require credits far in excess of the $2.5 million limit, hybrid developments in general can reduce 9% credit requests and therefore stretch the scarce 9% credits across more projects, resulting in more total units. Virginia has encouraged hybrid developments through its point system and believes that the outcomes have been very beneficial to the program.

The proposed changes require a hybrid development seeking to include the 4% units in the 9% project's size factor to effectively offer all the benefits of a 9% project across both the 4% and 9% components. Otherwise, the policy would not result in any more units with 9% benefits but would simply encourage applicants to lump stand-alone 4% projects into their 9% applications. Specifically, the proposed changes establish the following thresholds for a hybrid development seeking such tiebreaker benefit:

- The applicant must submit the related 4% application to TCAC and CDLAC by the 9% application deadline. This will allow staff to review the 4% application for compliance with the thresholds and correctly calculate the size factor.
- The 4% and 9% projects are simultaneous phases, as defined in Section 10327(c)(2)(C). As that section is proposed to be amended by these regulation changes, the 4% and 9% projects must be on the same parcel or on parcels within ¼ mile of each other and have construction start dates or completion dates that are within six months of each other.
- The 4% application is eligible for maximum points in the 9% housing type, service amenity, sustainability, and lowest income points categories, except that the income targeting can be met across both the 4% and 9% projects in the aggregate, as opposed to within each individual project.
- Any amount of the combined 4% and 9% developer fees in cost that are in excess of the limit for the 9% project by itself must be deferred or contributed as equity to the projects. Whereas some hybrid applicants seeking tiebreaker credit may have applied as a single 9% project, staff does not believe that the developer should receive additional take out developer fee for splitting the development up. This language does allow the developer to claim the maximum developer fee in cost and basis for each component project, provided any aggregate amount in cost that exceeds the 9% project limit stays with the one or more of the projects as a permanent financing source.

To ensure that the hybrid component projects are truly one simultaneous development, the proposed changes further provide that if the components projects are not placed in service within 6 months of each other, both applicants shall be subject to negative points.

Sixth, Section 10327(c)(6) generally provides that TCAC shall underwrite rehabilitation projects and new construction projects with land acquired from a related party using the lesser of the appraised value or purchase price. The theory is that TCAC will allow buyers to pay higher than appraised prices but will not subsidize such choices by calculating its credits on the higher price. The proposed changes to this section similarly provide that TCAC for tiebreaker purposes will discount public funds by the amount of the overpayment. Because funding sources are fungible, the language does not consider which funding source is designated as paying the acquisition price. Instead, the language deems the public funds effectively to be paying for the overage. This is similar to how TCAC handles ineligible off-site costs with one major distinction. Whereas TCAC also reduces the total residential project cost in the tiebreaker ratios by ineligible off-site costs on the theory that such costs are only indirectly related to the project, TCAC will not reduce the total residential project cost in the tiebreaker ratios for projects that truly pay more than appraised value to acquire the property. The proposed changes further provide an exception to this new tiebreaker rule for projects that receive a waiver

pursuant to Section 10327(c)(6). Such waivers are currently limited to rehabilitation projects in designated revitalization areas for which a local government is purchasing or providing funds for the land and determines the higher cost is justified. Staff proposes to expand this current waiver to new construction projects and to allow waivers for projects in which the purchase price does not exceed the sum of third party debt encumbering the property that will be assumed or paid off (see the discussion in Section 10327(c)(6)).

Seventh, The proposed changes create a bonus to the total tiebreaker score for new construction large family projects located in areas designated as Highest Resource or High Resource on the proposed TCAC/HCD Opportunity Area Map. The bonus is a straight addition to the tiebreaker, as opposed to a factor multiplied against the first or second ratios or the combination thereof. Specifically, non-rural new construction large family projects would receive a 20 percentage point increase for being in a Highest Resource Area or a 10 percentage point increase for being in a High Resource Area. Recognizing the generally lower tiebreaker scores in the rural set-aside, rural new construction large family projects would receive a 10 percentage point increase for being in a Highest Resource Area or a 5 percentage point increase for being in a High Resource Area.

Fifty-four percent of the nation's poor live in high-poverty neighborhoods (those with poverty rates over 20 percent). Yet research has shown that low-income children who move to higher-resource, lower poverty areas experience higher educational attainment, college attendance rates, and earnings in adulthood when compared to their counterparts who grow up in areas of concentrated poverty. Living in lower poverty neighborhoods also has been shown to generate substantial physical and mental health improvements for both children and adults. Various analyses of where TCAC 9% new construction large family projects have been located over the last 5-10 years indicate that such projects are disproportionately located in lower opportunity areas. While staff remains committed to funding developments in neighborhoods across the economic spectrum, staff strongly believes that its affordable housing residents should have more choice in where to live. Some may wish to remain in a community they grew up in. Others may wish to raise their families in places with greater job and educational opportunities. The options are not currently balanced, and the current 9% tax credit competition does not in any way advantage applications proposing new large family projects in higher resource neighborhoods in order to begin correcting the historic imbalance.

Following up on last year's regulation discussions and the spring forums TCAC co-hosted with HCD, staff proposes a number of measures to increase choice and access to place-based opportunity for residents of large family developments (see related changes in Section 10315(h), Section 10325(c)(5)(A)11., and Section 10327(c)(5)(F)). As opposed to the proposal last year to prohibit most new family projects in the lowest resource areas, the majority of the proposals this year seek to incentivize new family projects in higher resource areas. The proposed change to this section is arguably the most significant of the changes in that it affects the tiebreaker, which in an environment of maximum scoring projects is generally the determinant of awards. Incentives that ignore the tiebreaker are unlikely to make much difference in outcomes. The higher resource area bonuses are sized to provide a significant advantage without being absolutely determinative of outcome. Whereas rural projects often must have a 30% tiebreaker and non-rural projects a 50% tiebreaker to receive an award, the proposed bonuses at most represent 30-40% of the amount needed.

Ideally, new construction large family projects would be proportionately distributed across resource designations. Whereas many factors, including local zoning practices, funding priorities and TCAC policies, contribute to the historic imbalance in locations, it may well be that no changes to TCAC regulations will allow for such an equal distribution of family projects. Staff believes, however, that given two maximum scoring applications, the tiebreaker should give significant weight to a project located in a higher resource area. In essence, staff proposes to advantage large family new construction projects in higher resource neighborhoods in order to begin correcting the historic imbalance that results in a lack of choice and opportunity for residents.

In order to establish an area's resource level, the proposed changes reference a newly created series of maps that are distinct from the UC Davis Regional Opportunity Index cited in last year's proposals. To address the mapping question, TCAC and HCD in early 2017 convened a group of independent organizations and research centers to advise on the most appropriate mapping tool. The primary organizations involved included the Haas Institute for a Fair and Inclusive Society, the UC Davis Center for Regional Change, Enterprise Community Partners, and the California Housing Partnership. In addition to HCD and CalHFA staff, the project was also advised by the Kirwan Institute for the Study of Race and Ethnicity, the Urban Displacement Project, the Terner Center for Housing Innovation, PolicyLink, and Housing California. Ultimately, this task force agreed that currently available mapping tools were not appropriate for TCAC and HCD and recommended a new approach. The most significant distinction of the new maps is that they are created on a regional scale, so that resources are measured within a region as opposed to across regions. TCAC published and sought comment on the proposed maps and methodology in August. Staff will review the comments with the task force and, if advisable, make adjustments to the methodology as soon as possible, hopefully with some time remaining in the comment period for these regulations changes.

Section 10325(d)

(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 by using all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the shaded cells in the application sources and uses budget itself or by a letter from the development team's third party tax professional~~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. 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 limit~~s for the year the project is placed in service (or the original total eligible threshold basis limit if higher)~~ by 40%. For purposes calculating the high cost test at placed in service, TCAC shall use the higher of the unadjusted threshold basis limit from application or the year the projects places in service. ~~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.

Reason: Staff proposes to eliminate the leveraging point category (see the discussion in Section 10325(c)(1)). Whereas the methodology for calculating total eligible basis is currently contained in that section, staff proposes to import the methodology to this section where it is also applicable. The proposed changes make one alteration to the language to clarify that exclusions from basis must justified either by 1) a letter from a third-party tax professional or 2) shaded cells on the TCAC sources and uses budget.

The proposed changes further delete obsolete language relating to projects that the Committee approved in spite of their high costs. The Committee approved no such projects, and last year's regulation changes eliminated the Committee's authority to do so.

Section 10325(d)(1)

(1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside, followed by the Rural set-aside (funding the RHS and HOME program apportionment first, and the Tribal pilot apportionment second), the At Risk set-aside, and the Special Needs~~/SRO~~ set-aside, the highest scoring applications will have Tax Credits reserved. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315. If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second funding round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the geographic area in which the project is located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.

Reason: Staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). This is a conforming change.

Section 10325(f)(1)(B)(ii)

(ii) Except for ~~SRO~~ special needs rehabilitation projects in which at least 90% of the total units are SRO units, the proposed unit value ratio stated as dollars per square foot ($/s.f.) will be no more than the weighted average unit value ratios for comparable market rate units;

Reason: Staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). This is a conforming change.

Section 10325(f)(1)(B)(iv)

(iv) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy – 90% occupancy for ~~SRO and~~ Special Needs projects and 95% for all other projects – within six months of being placed in service for projects of 150 units or less, and within 12 months for projects of more than 150 units and senior projects.

Reason: Staff proposes to fold the SRO housing type into the Special Needs housing type (see the discussion in Section 10325(g)(3)). This is a conforming change.

Section 10325(f)(3)

(3) Enforceable financing commitment. Applicants shall provide evidence of enforceable financing commitments for at least fifty percent (50%) of the acquisition and construction financing, or at least fifty percent (50%) of the permanent financing, of the proposed project's estimated total acquisition and construction or total permanent financing requirements. An "enforceable financing commitment" must:

(A) be in writing, stating rate and terms, and in the form of a loan, grant or an approval of the assignment/assumption of existing debt by the mortgagee;

(B) be subject only to conditions within the control of the applicant, but for obtaining other financing sources including an award of Tax Credits;

(C) have a term of at least fifteen (15) years if it is permanent financing;

(D) demonstrate feasibility for fifteen (15) years at the underwriting interest rate, if it is a variable or adjustable interest rate permanent loan; and,

(E) be executed by a lender other than a mortgage broker, the applicant, or an entity with an identity of interest with the applicant, unless the applicant is a lending institution actively and regularly engaged in residential lending; and

(F) be accepted in writing by the proposed mortgagor or grantee, if private financing.

Substitution of such funds may be permitted only when the source of funding is similar to that of the original funding, for example, use of a bank loan to substitute for another bank loan, or public funds for other public funds. General Partner loans or developer loans must be accompanied by documented proof of funds being available at the time of application. In addition, General Partner or developer loans to the project are unique, and may not be substituted for or foregone if committed to within the application.

Projects awarded under a Nonprofit set-aside homeless assistance priority or a Rural set-aside RHS or HOME apportionment pursuant to a funding commitment may not substitute
other funds for this commitment after application to CTCAC. Failure to retain the funding may result in an award of negative points.

For projects using FHA-insured debt, the submission of a letter from a Multifamily Accelerated Processing (MAP) lender stating that they have underwritten the project and that it meets the requirements for submittal of a multifamily accelerated processing firm commitment application to HUD. ~~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.~~

Reason: The proposed change deletes obsolete language related to the 2015 award rounds.

Section 10325(f)(4)

(4) Local approvals and Zoning. Applicants shall provide evidence, at the time the application is filed, that the project as proposed is zoned for the intended use~~,~~ and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied, except that an appeal period may run 30 days beyond the application due date. The applicant must provide proof that either no appeals were filed, or that any appeals filed during that time period were resolved within that 30-day period and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, and conditional use permits. Notwithstanding the first sentence of this subsection, local land use approvals not required to be obtained at the time of application include, design review, initial environmental study assessments, variances, and development agreements. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

Reason: With respect to environmental approvals and readiness points, the current regulations allow for a final appeal period to extend 30 days beyond the TCAC application due date. The proposed changes create a similar appeal grace period for the threshold requirement related to local entitlements. [Note that staff proposes to eliminate readiness points for local land use approvals in Section 10325(c)(8) [to become (c)(7)] given this threshold requirement.] If the project is within the grace period at application, the applicant must demonstrate that no appeals were filed or that they were resolved within the 30 day period.

Section 10325(f)(7)(A)

(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~~AP Homes (low-rise and mid-rise), LEED AP BD+C (high rise), NGBS Green Verifier, or GreenPoint Rater (one person may meet ~~all~~ both of these latter 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. 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 Standard ICC / ASRAE – 700 silver or higher rating or GreenPoint Rated Program. In addition, all applicants who will receive points from CDLAC pursuant to Sections 5230(k)(7) or (8) (for energy efficiency only) of the CDLAC

regulations must submit a completed Sustainable Building Method Workbook with their preliminary reservation application.

Reason: The proposed changes remove the reference to 2013 CABEC certification as analysts by now should have a 2016 certification.

The proposed changes further update the list of allowed raters to reflect changes in LEED designations. LEED raters must have the AP Homes (low-rise and mid-rise) or AP BD+C (high rise) designations, which are appropriate to TCAC housing developments.

Section 10325(f)(7)(E)

(E) Appliances. ~~Except for SRO units, a~~All Low-Income U~~u~~nits shall provide a ~~stove and~~ refrigerator. All non-SRO Low-Income Units shall provide a stove, and all SRO Low-Income Units shall include a cooking facility. The Executive Director may waive the refrigerator and cooking facility requirement for SRO units. 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.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that the appliances requirements apply only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

The proposed changes also generally require SRO units to provide a refrigerator and a cooking facility. For SRO units the language uses the term "cooking facility" as opposed to "stove," meaning that a microwave or hotplate is sufficient. Staff believes that SRO residents should at least have a minimal ability to store and prepare food within their units. Moreover, microwaves do not generally pose a fire hazard. The language further allows the Executive Director to grant a waiver for these SRO requirements either at the project level or for a tenant for whom a microwave poses a significant hazard.

Section 10325(f)(7)(G)

(G) Water heater. If water heaters are to be provided or replaced, for Low-Income U~~u~~nits with individual tank-type water heaters, minimum capacities are to be 28 gallons for one- and two-bedroom units and 38 gallons for three-bedroom units or larger.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that the water heater requirements apply only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10325(f)(7)(J)

(J) Consistent with California State law, projects with 16 or more ~~residential~~ Low-Income and Market-Rate ~~u~~Units must have an on-site manager's unit. Projects with at least 161 Low-Income and Market-Rate U~~u~~nits shall provide a second on-site manager's unit for either another on-site manager or other maintenance personnel, and there shall be one additional on-site manager's unit for either another on-site manager or other maintenance personnel for each 80 Low-Income and Market-Rate U~~u~~nits beyond 161 units, up to a maximum of four on-site manager's units. Scattered site projects totaling 16 or more Low-Income and Market-Rate U~~u~~nits must have at least one on-site manager's unit for the entire project, and at least one manager's unit at each site where that site's building(s) consist of 16 or more Low-Income and Market-Rate U~~u~~nits. Scattered sites within 100 yards of each other shall be treated as a single site for purposes of the on-site manager rule only.

In lieu of on-site manager units, a project may commit to employ an equivalent number of on-site full-time property management staff (at least one of whom is a property manager) and provide an equivalent number of desk or security staff capable of responding to emergencies for the hours when property management staff is not working. All staff or contractors performing desk or security work shall be knowledgeable of how the property's fire system operates and be trained in, and have participated in, fire evacuation drills for tenants. CTCAC reserves the right to require that one or more on-site managers' units be provided and occupied by property management staff if, in its sole discretion, it determines as part of any on-site inspection that the project has not been adequately operated and/or maintained.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that number of manager units required is based on the total number of units in the project except for the manager units themselves. The base number includes both low-income and market-rate units. Staff believes this is the appropriate universe of units because manager services are used by all residents.

Section 10325(f)(7)(K)

(K) All 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 in all respects except as follows: 1) instead of the minimum requirements established in 11B 233.3.1.1 and 11B 233.3.1.3, all new construction projects must provide a minimum of ten percent (10%) of the Low-Income U~~u~~nits with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and a minimum of four percent (4%) of the Low-Income U~~u~~nits with communications features, as defined in CBC 11B 809.5; and 2) all new construction projects shall provide the number of accessible parking spaces required solely by CBC Chapter 11(B) without regard to the increased TCAC percentage of mobility accessible units. 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 Low-Income U~~u~~nits 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. The project shall provide accessible parking spaces equal to the greater of 5% of the Low-Income Units or the number of accessible parking spaces

required solely by CBC Chapter 11(B) without regard to the increased TCAC percentage of mobility accessible units. In all other respects, applicable building code will apply. Projects with particular federal, state, or local funding sources may be required to meet additional accessibility requirements related to these other sources.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that accessibility requirements apply only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

In addition, the proposed changes codify TCAC's current interpretation of the regulations with respect to accessible parking requirements in order to provide clarity to all stakeholders. Building codes by themselves, if even applicable to rehabilitation projects, only require 5% mobility accessible units. The building codes further require one accessible parking space for each "required" accessible unit. The confusion results from the question, "Required by whom?" Whereas the TCAC regulations reference but are independent of the building codes, TCAC has opined that the building code parking requirement only applies to the building code mobility unit requirement (i.e., 5% of units). Because the TCAC regulations do not specifically address accessible parking requirements, they should not be read to require any more accessible parking than building codes would otherwise require. The proposed changes codify this interpretation and specify that new construction projects shall provide the number of accessible parking spaces required solely by Chapter 11(B) of the building codes without regard to the increased TCAC percentage of mobility accessible units. Similarly, the proposed changes specify that rehabilitation projects shall provide accessible parking spaces equal to the greater of 5% of low-income units or the number of accessible parking spaces required solely by Chapter 11(B) of the building codes without regard to the increased TCAC percentage of mobility accessible units. With respect to rehabilitation units, this is actually an increase in the amount of accessible parking in cases where the building codes by themselves would not trigger the provision of any accessible parking.

Staff is well aware that this interpretation and codification creates a situation in which there will often be fewer accessible parking spaces than accessible units. Staff believes this is appropriate for various reasons. First, it is generally the case that not all accessible units are occupied by persons who own a vehicle or who need a fully accessible parking space. Second, spaces can be converted later if needed as a reasonable modification. Third, rehabilitation projects involve existing buildings with existing residents and generally no ability to increase parking area. Converting an existing parking space to an accessible space takes more room and lowers the overall number of spaces which may already be insufficient. In new construction, parking is expensive and requiring more larger parking spaces adds to costs. Staff believes that having 5% accessible parking spaces strikes the correct balance.

Section 10325(f)(8)

(8) Deferred-payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, grants and subsidies shown in the application are "committed" at the time of application, except as permitted in subsection (E) ~~and (F)~~ below.

Reason: The current regulations allow for 9% applicants to list various soft financing sources as anticipated. The proposed changes delete the exemptions from the committed funding rule and instead require that all soft funds be committed at application. In most cases, applicants show commitments for soft funding in order to receive tiebreaker credit, which makes the exemption largely moot. More importantly, staff believes that 9% applicants should have all soft funding sources lined up at application in order to ensure that the project is ready to proceed. In the event that a project lists a source as anticipated and that source does not materialize, the

project has a gap and is at great risk of not meeting the 180/194-day closing deadline or the placed in service deadline.

Section 10325(f)(8)(F)

~~(F) Funds anticipated but not yet awarded under the following programs shall be exempt from the provisions of this subsection: the Affordable Housing Program (AHP) provided pursuant to a program of the Federal Home Loan Bank; RHS Section 514, 515 or 538 programs; the Department of Housing and Urban Development's Supportive Housing Program (SHP); the California Department of Mental Health's Mental Health Services Act Program; projects that have received a Reservation of HOME funds from the applicable Participating Jurisdiction; projects receiving Housing Tax Credits in 1999 and thereafter and funding under the Department of Housing and Community Development's Multifamily Housing Program; or for 2015 competitive tax credit applications, Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) program financing submitted with a recommendation by state program staff, provided that the applicant receives a VHHP or AHSC award prior to the CTCAC award.~~

Reason: In conformance with the proposed changes in Section 10325(f)(8), the proposed changes to this section delete the exemptions from the committed funding rule. In addition, the proposed changes delete obsolete language relating to 2015 awards.

Section 10325(f)(9)

(9) Project size and credit amount limitations. Project size limitations shall apply to all applications filed, pursuant to this Section.

(A) Unit number limits are as follows:

i. Rural set-aside applications - Eighty (80) Low-Income U~~u~~nits maximum
ii. Other than rural set-aside applications – One hundred fifty (150) Low-Income U~~u~~nits maximum.

Rehabilitation proposals are excepted from the above size limitations. In addition, rural set-aside proposals or non-rural HOPE VI or large neighborhood redevelopment proposals may request a size limitation waiver from the Executive Director. Such waiver requests for non-rural proposals must include a plan for the HOPE VI redevelopment, or a specific neighborhood revitalization plan. In granting a size limitation waiver for rural projects, the Executive Director shall determine that the rural community is unusual in size or proximity to a nearby urban center, and that exceptional demand exists within the market area.

~~(B) Units, for purposes of this subsection, shall:~~

~~i. include low-income units;~~
~~ii. not include market rate units or manager's units.~~

(~~C~~B) The total "units" in one or more separate applications, filed by Related Parties, proposing projects within one-fourth (1/4) mile of one another, filed at any time within a twelve (12) month period, shall, for purposes of this subsection be subject to the above project size limitations, except when specifically

waived by the Executive Director in unusual circumstances such as HOPE VI or large neighborhood redevelopment proposals pursuant to a specific neighborhood plan. HOPE VI and other large projects will generally be directed towards the tax-exempt bond program

(~~D~~C) The maximum annual Federal Tax Credits available for award to any one project in any funding round shall not exceed Two Million Five Hundred Thousand ($2,500,000) Dollars. (D) The maximum annual Federal Tax Credits available for award to any one project of 100 or less Low-Income Units in any funding round shall not exceed Two Million Five Hundred Thousand ($2,500,000) Dollars. The maximum annual Federal Tax Credits available for award to any one project of more than 100 Low-Income Units in any funding round shall not exceed Three Million ($3,000,000) Dollars.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section conform the terminology without affecting the substance.

The proposed changes also increase the maximum 9% federal tax credit award for projects with more than 100 low-income units from $2.5 million to $3 million. TCAC has sought in various ways to encourage larger projects to achieve cost savings through economies of scale. One of the major barriers to larger projects is the maximum award rule because larger projects often require larger subsidy. Staff is not interested in providing more credits to smaller projects that are more expensive but believes that larger projects should be able to access additional federal credits.

Section 10325(f)(11)(C)

(C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least $5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10320(b)(4) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.

Reason: Similar to the proposed changes in Section 10326(g)(8)(C), the proposed changes require resyndication projects to demonstrate in the pre-rehabilitation capital needs assessment a rehabilitation need of at least $5000 per unit over the first three years (i.e., the short-term work period), unless the project receives a waiver from the transfer event requirements of Section 10320(b)(4). Staff seeks to achieve two goals with this proposal. First, it ensures that tax credits are awarded only to projects facing at least some minimal rehabilitation need in the near future. Staff does not believe that tax credits should finance transactions that are effectively a refinancing. Staff further believes that projects that do not face short term needs but want to upgrade can wait to resyndicate until such time as the property has minimal rehabilitation needs. TCAC is committed to resyndications, but absent an immediate rehabilitation need, staff sees no need to resyndicate such a large number of projects on a 15-year cycle as opposed to a longer cycle. A later resyndication has the added benefit of extending the original TCAC regulatory agreement out even further.

Second, staff is concerned that the preparers of capital needs assessments can easily reclassify when specific repairs are needed in order to assist an applicant in reducing his or her short term work funding requirement associated with a transfer event. The proposed requirement for an applicant to show a minimal need in the short term work period in order to be eligible to resyndicate balances the existing incentive to minimize short term work needs. Staff believes that this will improve the accuracy of capital needs assessments. For projects that receive a waiver from the transfer event requirements, this is a moot point.

Section 10325(g)

(g) Additional Threshold Requirements. To qualify for Tax Credits as a Housing Type as described in Section 10315(h), to receive points as a housing type, or to be considered a "complete" application, the application shall meet the following additional threshold requirements~~:~~. A scattered site more than 1 mile from the nearest other site shall meet the requirements related to common areas, play/recreational facilities, and laundry facilities independently.

Reason: The 2015 amendments to the definition of a scattered site allow sites in some cases to be anywhere within a single county. Staff recently received questions about a three-site project for which each site was at least ten miles from the others. Only one of the sites had a play area or common area. To the extent that TCAC were to measure compliance with the common area and recreational facility requirements on a project-wide basis, tenants at two of these sites would effectively have no access to common area or recreational facilities. Staff does not believe that this is fair to all tenants or meets the intent of the regulation. The proposed changes require a scattered site more than one mile from the nearest other site to meet the common area, play/ recreational facility, and laundry facility requirements independently based on the number of total number of units (not just low-income units) at that site.

Section 10325(g)(1)(A)-(C)

(A) At least twenty-five percent (25%) of the ~~Tax Credit~~Low-Income U~~u~~nits in the project shall be three-bedroom or larger units, and for projects that receive land use entitlements on or after January 1, 2016 at least an additional twenty-five percent (25%) of the ~~Tax Credit~~Low-Income U~~u~~nits in the project shall be two-bedroom or larger units, except that for projects qualifying for and applying under the At-risk set-aside, the Executive Director may grant a waiver from this requirement if the applicant shows that it would be cost prohibitive to comply;

(B) One-bedroom Low-Income U~~u~~nits must include at least 450 square feet and two-bedroom Low-Income U~~u~~nits must include at least 700 square feet of living space. Three-bedroom Low-Income U~~u~~nits shall include at least 900 square feet of living space and four-bedroom Low-Income U~~u~~nits shall include at least 1,000 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;

(C) Four-bedroom and larger Low-Income U~~u~~nits shall have a minimum of two full bathrooms;

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that 3-bedroom rule and minimum square footage requirements apply only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit and these amenities are unit specific, as opposed to used by all residents.

Section 10325(g)(1)(H)

(H) Dishwashers shall be provided in all Low-Income U~~u~~nits unless a waiver is granted by the Executive Director because of planning or financial impracticality;

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that dishwasher requirements apply only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit and this amenity is unit specific, as opposed to used by all residents.

Section 10325(g)(2)(A)

(A) All units ~~shall be restricted to households eligible under the provisions of California Civil Code Section 51.3. However, starting with projects allocated credits in 2015 all units~~ shall be restricted to residents who are 62 years of age or older under applicable provisions of California Civil Code Section 51.3 and the federal Fair Housing Act (except for projects utilizing federal funds whose programs have differing definitions for senior projects), and further be subject to state and federal fair housing laws with respect to senior housing;

Reason: The proposed change deletes obsolete language that relates only to pre-2015 projects.

Section 10325(g)(2)(B)

(B) ~~Effective for projects allocated credits in 2015 and thereafter, f~~For new construction projects, one half of all Low-Income U~~u~~nits on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of California Building Code (CBC) Chapter 11(B), and the project shall provide accessible parking spaces equal to the greater of 25% of all Low-Income Units on an accessible path (ground floor and elevator-serviced) or 10% of all Low-Income Units. For rehabilitation projects ~~allocated credits in 2015 and thereafter~~, 25% of all Low-Income U~~u~~nits on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of CBC Chapter 11(B), and the project shall provide accessible parking spaces equal to the greater of 12.5% of all Low-Income Units on an accessible path (ground floor and elevator-serviced) or 5% of all Low-Income Units. All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators. 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. The Executive Director may approve a waiver in advance for a rehabilitation project, provided that the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden;

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that accessibility requirements apply only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit and this amenity is unit specific, as opposed to used by all residents.

In addition and similar to Section 10325(f)(7)(K), the proposed changes clarify the amount of accessible parking that must accompany accessible units in senior projects. Building codes require one accessible parking space for each "required" accessible unit. The confusion results from the question, "Required by whom?" Whereas the TCAC regulations reference but are independent of the building codes, TCAC has opined that the building code parking requirement only applies to the building code mobility unit requirement (i.e., 5% of units

for new construction and, if applicable, for rehabilitation). The TCAC regulations do not specifically address accessible parking requirements in senior developments, so there is no greater TCAC standard. The proposed changes specify that senior housing type projects shall provide half the number of accessible parking spaces as the number of mobility accessible units required by TCAC, in other words parking spaces equal to 25% of all low-income units on an accessible path in new construction and 12.5% of all low-income units on an accessible path in rehabilitation projects. The proposed changes further set a floor of 5% of total low-income units (those on and off an accessible path) in order to conform with the proposed minimum construction standard for accessible parking in Section 10325(f)(7)(K). Given the lack of current TCAC accessible parking standards for senior projects, this is actually an increase in the amount of accessible parking required by building codes.

Staff is well aware that this proposed change maintains a situation in which there will often be fewer accessible parking spaces than accessible units. Staff believes this is appropriate for various reasons. First, it is generally the case that not all accessible units are occupied by persons who own a vehicle or who need a fully accessible parking space. Second, spaces can be converted later if needed as a reasonable modification. Third, rehabilitation projects involve existing buildings with existing residents and generally no ability to increase parking area. Converting an existing parking space to an accessible space takes more room and lowers the overall number of spaces which may already be insufficient. In new construction, parking is expensive and requiring more larger parking spaces adds to costs. Staff believes that having accessible parking spaces for half of the accessible units strikes the correct balance.

The proposed changes further allow the Executive Director, identical to the minimum construction standards, to approve a waiver from these requirements for rehabilitation projects if the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden. Retrofitting existing developments for accessibility can at times be impossible or extremely expensive and at other times can result in unusable or unmarketable dwellings. Staff strongly believes that some flexibility is warranted and seeks to provide the same waiver authority as already exists in another context.

Section 10325(g)(2)(D)

(D) No more than twenty percent (20%) of the Low-Income Units~~low-income units~~ in the project shall be larger than one-bedroom units, unless waived by the Executive Director, when supported by a full market study~~. One larger unit may be included for use as a manager's unit without a waiver~~;

Reason: The proposed changes capitalize a defined term and delete an unnecessary sentence. Whereas manager units are not low-income units, they are unaffected by this provision and may contain as many bedrooms as the applicant wishes to provide.

Section 10325(g)(2)(E)

(E) One-bedroom Low-Income U~~u~~nits must include at least 450 square feet and two-bedroom Low-Income U~~u~~nits must include at least 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;

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that minimum square footage requirements apply only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-

income units whom TCAC seeks to benefit and this only units as opposed to common areas used by all residents.

Section 10325(g)(3)

~~(3) SRO projects. To be considered Single Room Occupancy (SRO) housing, the application shall meet the following additional threshold requirements:~~

~~(A) Average targeted income is no more than forty percent (40%) of the area median income;~~

~~(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 minimum size for SRO units shall be 200 square feet, and at least 90% of the SRO units shall not exceed 500 square feet. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director;~~

~~(C) At least one bath shall be provided for every eight units;~~

~~(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving General Assistance are willing to pay rent at the level proposed;~~

~~(E) The project configuration, including community space and kitchen facilities, shall meet the needs of the population;~~

~~(F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost;~~

~~(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;~~

~~(H) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);~~

~~(I) A ten percent (10%) vacancy rate shall be used unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;~~

~~(J) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider, must accompany the Tax Credit application;~~

~~(K) A summary of the experience of the developer and the service provider in providing for the population to be served must accompany the Tax Credit application; and~~

~~(L) New construction projects for seniors shall not qualify as Single Room Occupancy housing.~~

Reason: The proposed change folds the SRO housing type into the special needs housing type in Section 10325(g)(4), which will then become Section 10325(g)(3). Almost all SRO projects to date serve special needs populations and the specific requirements for each housing type are generally similar, so the two housing types are largely redundant. Moreover, staff believes that less expensive SRO units should serve special needs populations and points out the proposal in the special needs housing type to reduce the minimum percentage of special needs units to 25%. Conversely, staff does not believe that SRO projects serving less than the minimum threshold of special needs households should have access to the current SRO/Special Needs set-aside.

Section 10325(g)(4) [Will become Section 10325(g)(3)]

(~~4~~3) Special Needs projects. To be considered Special Needs housing, at least ~~50~~25% of the ~~Tax Credit~~Low-Income U~~u~~nits 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~~12957(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~~,~~ or senior~~, or SRO~~ housing type ~~(although the project will be considered as a special needs project for purposes of Section 10315)~~ or consist of either (i) at least 20% one-bedroom units and at least 10% larger than one-bedroom units as a percentage of Low-Income Units or (ii) at least 90% SRO units as a percentage of Low-Income 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:

(A) Average targeted income for the special needs and non-special needs SRO units is no more than forty percent (40%) of the area median income;

(B) Third party verification from a federal, state or local agency of the availability of services appropriate to the targeted population;

(C) The units/building configurations (including community space) shall meet the specific needs of the population, including kitchen needs for SRO units without full kitchens;

(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population of special needs units and non-special needs SRO units can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving such assistance are willing to pay rent at the level proposed;

(E) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

(F) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

(G) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);

(H) One-bedroom Low-Income Units must include at least 450 square feet, and two-bedroom Low-Income Units must include at least 700 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~~A ten percent (10%) vacancy rate shall be used for pro forma purposes unless otherwise approved by the Executive Director. Justification of a lower rate shall be included~~;

(I) 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 minimum size for SRO Low-Income Units shall be 200 square feet, and the size shall not exceed 500 square feet. 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. A project that includes SRO units without complete private baths shall provide at least one bath for every eight SRO units. ~~Where services are required as a condition of occupancy, special attention shall be paid to the assessment of service costs as related to maximum allowable Credit rents. A third-party tax professional's opinion as to compliance with IRC Section 42 may be required by the Executive Director~~;

(J) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider(s) identified in the preliminary service plan described in paragraph (L), must accompany the Tax Credit application;

(K) A summary of the experience of the developer and the service provider(s) in providing services to the project's special needs populations must accompany the Tax Credit application; and

(L) A preliminary service plan that specifically identifies: the service needs of the projects special needs population; the organization(s) that would be providing the services to the residents; the services to be provided to the special needs population; how the services would support resident stability and any other service plan objectives; a preliminary budget displaying anticipated income and expenses associated with the services program. The Executive Director shall, in his/her sole discretion, determine whether the plan is adequate to qualify the project as a special needs project.

Reason: Staff proposes a few changes to this section. First and most significant, the proposed changes reduce the minimum percentage of special needs units in a special needs project from 50% to 25%. In the interest of promoting integrated communities, HCD and the California Housing Finance Agency (CalHFA) have different standards or practices for special needs projects. CalHFA's Mental Health Services Act and Local Government Special Needs Housing programs generally limit assistance to no more than 20-30% of units for projects of more than 20 units. In its No Place Like Home program, HCD is proposing to limit assistance to no more than 49% of units with an exception for smaller projects. For projects seeking funding from multiple state sources, these standards can create effective conflicts or at least require serving multiple special needs populations.

On another level, even though TCAC's special needs definition is not limited to persons with disabilities, there is some concern that the 50% threshold may concentrate persons with disabilities and raise issues of compliance

with the *Olmstead* decision. In *Olmstead*, the U.S. Supreme Court held that people with disabilities have a qualified right to receive state funded supports and services in the community rather than institutions and prohibits unjustified segregation of individuals with disabilities. The proposed changes continue to allow 100% special needs projects but also allow for more internally-integrated developments.

Staff is aware that this proposed change may result in fewer special needs units overall in the 9% program. Staff is confident, however, that any such reduction will be more than offset by the various new sources of funds that are available at HCD and through local bond measures only for special needs units, many of which will be funded with tax-exempt bonds and 4% tax credits. Staff also notes that in combining the SRO and special needs housing types, the housing type goal for special needs projects is proposed to increase from 25% to 30%. This will also accommodate a greater number of awards to special needs projects to offset any reduction in the number of special needs units within those projects.

Second, staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that the special needs unit threshold applies only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Third, the proposed changes update the reference to the statutory definition of homeless youth, which recently moved.

Fourth, staff proposes to fold the SRO housing type into the special needs housing type (see the discussion in Section 10325(g)(3)). The proposed changes to this section remove references to the SRO housing type and incorporate relevant provisions specific to SRO units into the special needs housing type. Specifically, the proposed changes 1) allow non-special needs units in a project with less than 75% special needs units additionally to be comprised 90% of SRO-size units: 2) maintain the requirements that non-special needs SRO units average 40% AMI and demonstrate the target population's ability to pay rent; 3) specify that the project shall meet the kitchen needs for SRO units without full kitchens; and 4) import the definition of an SRO unit and the corresponding minimum square footage requirements.

Fifth, the proposed changes delete the vacancy rate provision because it is redundant with Section 10327(g)(3).

Sixth, the proposed changes remove subparagraph (I) because it is never applicable.

Section 10325(g)(5) [No changes to subsequent text]

(~~5~~4) At-risk projects.

Reason: The proposed changes renumber Section 10325(g)(5) to reflect the folding of the SRO housing type into the special needs housing type.

Section 10325.5

~~10325.5(a) Projects that received a reservation of 9% tax credits in 2016 and that have not yet closed construction financing may request permission from the Executive Director to split the project into two with one maintaining the 9% credit reservation and the other receiving 4% tax credits on any unutilized basis. Projects receiving such permission, in the aggregate, shall maintain the rent and income targeting, point score, and~~

~~amount of public funds cited in the initial 9% staff report. In addition, projects receiving such permission, in the aggregate, shall be subject to the high cost test described in Section 10325(d) and shall not increase the developer fee in cost beyond the limit stated in the initial 9% staff report but may claim 4% tax credit basis for any portion of the developer fee, including the amount above the 9% limit in eligible basis. Notwithstanding the timing requirements of Section 10322, TCAC may use any documents submitted with the original 9% application to satisfy the application requirements of Section 10322. If permission is granted, the Executive Director shall revise the 9% tax credit reservation in accordance with the revised TCAC feasibility analysis, provided that the amount of reserved tax credits does not increase.~~

~~(b) A new construction project that received a reservation of 9% tax credits in the second round of 2016 or that is receiving permission pursuant to subdivision (a) may elect to return all of the 2016 Federal Credit, and State Credit if applicable, in exchange for a new reservation and allocation of 2017 Federal Credits, and State Credits if applicable.~~

> ~~(1) If pursuing a hybrid structure pursuant to subdivision (a), the election shall occur at the time the revised 9% and new 4% applications are submitted. If the applicant elects to return the 2016 9% Federal Credit, and State Credits if applicable, upon acceptance of the 4% tax credit reservation, the reservation and carryover allocation of the 9% Federal Credits and the reservation of State Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant. The Committee concurrently shall issue a new reservation of 9% Federal Credits, and State Credits if applicable, to the project in an amount equal to or less than the amount of Federal and State Credits returned by the project to the Committee, in accordance with the revised 9% reservation.~~
>
> ~~(2) If the project is not pursuing a hybrid structure pursuant to subdivision (a), the election shall occur in the form of a written request submitted to CTCAC prior to any deadline the Executive Director may establish. The reservation and carryover allocation of the 9% Federal Credits and the reservation of State Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant. The Committee concurrently shall issue a new reservation of 9% Federal Credits, and State Credits if applicable, to the project in the amount of the Federal Credits and State Credits returned by the project to the Committee.~~

Reason: The proposed changes delete the obsolete Section 10325.5 as it relates only to 2016 projects.

Section 10326(g)(3)

(3) Local approvals and Zoning. Applicants shall provide evidence~~, at the time the application is filed,~~ that the project, as proposed, is zoned for the intended use~~,~~ and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied. Applicants requesting competitive state credits shall provide this evidence at the time the application is filed, except that an appeal period may run 30 days beyond the application due date, in which case the applicant must provide proof that either no appeals were filed, or that any appeals filed during that time period were resolved within that 30-day period and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, conditional use permits. Notwithstanding the first sentence of this subsection, applicants need not have obtained design review approval at the time of application. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

Reason: The current regulations require 4% tax credits applications to demonstrate at the time the TCAC application is filed that they have obtained all discretionary local land use approvals. While this deadline is appropriate for competitive applications, it is needlessly strict for non-competitive applications. The proposed changes maintain for non-competitive projects the threshold requirement that they have all discretionary land use approvals but, similar to all other threshold requirements, allow the applicants to provide evidence during the review process. The proposed changes maintain for competitive applications the TCAC application date due date but provide the same 30-day appeal period that 9% tax credit applicants enjoy.

Section 10326(g)(5)

(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~~1)(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~~1). 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:

Reason: The proposed changes reflect the renumbering of Section 10325(c)(2).

Section 10326(g)(8)(C)

(C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least $5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10320(b)(4) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.

Reason: Similar to the proposed changes in Section 10325(f)(11)(C), the proposed changes require resyndication projects to demonstrate in the pre-rehabilitation capital needs assessment a rehabilitation need of at least $5000 per unit over the first three years (i.e., the short-term work period), unless the project receives a waiver from the transfer event requirements of Section 10320(b)(4). Staff seeks to achieve two goals with this proposal. First, it ensures that tax credits are awarded only to projects facing at least some minimal rehabilitation need in the near future. Staff does not believe that tax credits should finance transactions that are effectively a refinancing. Staff further believes that projects that do not face short term needs but want to upgrade can wait to resyndicate until such time as the property has minimal rehabilitation needs. TCAC is committed to resyndications, but absent an immediate rehabilitation need, staff sees no need to resyndicate such a large number of projects on a 15-year cycle as opposed to a longer cycle. A later resyndication has the added benefit of extending the original TCAC regulatory agreement out even further.

Second, staff is concerned that the preparers of capital needs assessments can easily reclassify when specific repairs are needed in order to assist an applicant in reducing his or her short term work funding requirement associated with a transfer event. The proposed requirement for an applicant to show a minimal need in the short term work period in order to be eligible to resyndicate balances the existing incentive to minimize short term work needs. Staff believes that this will improve the accuracy of capital needs assessments. For projects that receive a waiver from the transfer event requirements, this is a moot point.

Section 10326(j)(3)

(3) Projects shall maintain at least 10% of the ~~total~~ Low-Income U~~u~~nits at rents affordable to tenants earning 50% or less of the Area Median Income, and shall maintain a minimum 30 year affordability period.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that the deeper targeting requirement applies only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10327(c)(2)(A)

(A) The maximum developer fee that may be included in project costs for a 9% competitive credit rehabilitation or adaptive reuse 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 purposes of this subparagraph, at placed in service TCAC shall use the higher of the unadjusted threshold basis limit from application or the year the project places in service.

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:

(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

(iii) 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~~B) 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 Low-Income U~~u~~nits, $1,750,000 for projects having between 251 and 300 Low-Income U~~u~~nits, and $1,820,000 for projects having more than 300 Low-Income U~~u~~nits.

Reason: Staff proposes a few changes to this section. First, the proposed changes clarify that adaptive reuse projects, for purposes of the developer fee limits, are considered rehabilitation projects. As a result, they are subject to the $2 million limit on developer fee in cost and exempt from the cost factor adjustment. In most other contexts, the regulations treat adaptive reuse projects as new construction projects. In this case, staff believes that adaptive reuse projects should more appropriately be considered rehabilitation projects. More similar to rehabilitation than new constructions, costs for adaptive reuse can be less because, at a minimum, the foundation and shell of the structure are already in place and because applicants have more flexibility with the scope of work.

Second, similar to the high-cost test and basis limits themselves, the proposed changes clarify that TCAC at placed in service will use the higher of the unadjusted threshold basis tables from the year of application or the placed in service year to calculate the developer fee cost adjustment.

Third, staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that the special needs unit threshold applies only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10327(c)(2)(B)(ii)

(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 U~~u~~nit 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~~4) or for other acquisition/rehabilitation projects whose hard construction costs per unit in rehabilitation expenditures are at least ~~$20,000~~$25,000 or where the development will restrict at least 30% of its Low-Income U~~u~~nits for those with incomes no greater than 50% of area median and restrict rents concomitantly.

Reason: The proposed changes increase from $20,000 per unit to $25,000 per unit the threshold at which a developer may receive a developer fee equal to 15% of the acquisition basis for doing substantial rehabilitation work. Whereas an applicant must do at least $15,000 per unit in rehabilitation even to be eligible for 4% tax credits, staff believes that a bigger difference between minimum and substantial rehabilitation is warranted before a develop is eligible for a significantly larger fee.

In addition, staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that deeper targeting threshold applies only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10327(c)(2)(C)

(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~~reservation, the developer fee in cost 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. Once established at reservation, the developer fee in basis shall not be increased but may be decreased in the event of a modification in basis, except that the developer fee in basis for a non-competitive project may increase or decrease. ~~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~~The provisions of (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, except for an all 9% phased project in which the immediately preceding phase includes 150 or more total units. Only when the immediately preceding phase of an all 9% phased project equals or exceeds 150 units or when any other phased project is using both credit types ~~may simultaneously phased projects exceed the limitations in (2), (2)(A), and (2)(B) in the aggregate~~shall the provision of (2)(A) and (2)(B) apply to each phase independently. For purposes of this limitation, "simultaneous" refers to projects consisting of a single building, or projects on the same parcel or ~~adjacent~~ on parcels within ¼ mile of each other and with construction start dates within six months of each other, or completion dates that are within six months of each other.

Reason: Staff proposes three changes to this section. First, the current regulations prohibit an increase in the developer fee, both in cost and basis, after reservation. The proposed changes allow a non-competitive project to increase the developer fee in basis, but not in cost, at placed in service. Of course, the developer fee in basis cannot exceed the fee in cost or the TCAC limits. The impact of this change is probably limited to cases in which the developer of a 4% tax credit project does not claim all eligible basis from the developer fee at reservation. Staff is not interested it allowing increases in developer fees in cost for any project at placed in service, nor is staff interested in allowing increases in developer fees in basis for competitive projects.

Second, the current regulations apply the developer fee limitations in the aggregate to "simultaneous phases" using the same credit type. The intent of this rule is to discourage applicants from splitting up a project into phases to skirt the developer fee limits. The proposed changes create an exception to this rule for simultaneously phased all-9% credit developments. Under the exception, a 9% phase following another 9% phase with at least 150 units may include a developer fee in cost and basis up to the limits, independent of the previous phase. Because the regulations generally limit projects to 150 units in size, an applicant who splits up a project to meet this limit is not skirting the developer fees limits. In that circumstance, staff believes it is appropriate to allow the subsequent phase to earn its own developer fee.

Third, the proposed changes alter the definition of simultaneous phases. Whereas the current regulations limit the definition, among other things, to projects on the same or adjacent parcels, the proposed changes apply the definition to projects on the same parcel or on parcels within ¼ mile of each other. Within multi-phase developments, an applicant currently can pick two non-adjacent parcels to avoid the aggregate developer fee limit. Moreover, some phased developments have extraneous parcels between sites. Staff believes that such situations should not exempt a phased development from the simultaneous phases rule.

Section 10327(c)(5)

(5) Threshold Basis Limits. ~~The~~ At application, 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(rr) of these regulations. At placed in service, the Committee shall limit the unadjusted eligible basis amount to the higher of the amount published on its website in effect at the time of application or in effect for the year the project places in service.

Exceptions to limits.

Reason: The proposed changes codify TCAC's practice of applying at placed in service the higher of the threshold basis from the year of application or the placed in service year for the purposes of limiting basis requests.

Section 10327(c)(5)(A)

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

A twenty percent (20%) increase to 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 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 limits where a day care center is part of the development;

A two percent (2%) increase to the limits where 100% of the Low-Income U~~u~~nits are for special needs populations;

A ten percent (10%) increase to the 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.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section clarify that special needs unit calculation applies only to low-income units. Staff believes this is the appropriate universe of units because it is the residents of the low-income units whom TCAC seeks to benefit.

Section 10327(c)(5)(B) Compliance and Verification

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 a HERS, GreenPoint, NGBS Green Verifier, PHIUS,

Passive House, or Living Building Challenge Rater, or from a 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 Sustainable Building Methods Workbook, a Multifamily Affordable Solar Home (MASH) Program field verification certification from 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 or, for existing residential buildings, the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC, for purposes of determining the solar values to be input into the CUAC calculator. For item (2), the energy analyst shall provide documentation of the load serving the common area and the output calculations of the photovoltaic generation. For items (3) and (4), the applicant must submit a Sustainable Building Method Workbook with the original application and the placed-in-service application. For item (5), the Rater, architect, landscape architect, or water system engineer shall 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.

Reason: Similar to Section 10325(c)(6)(G)6. which currently requires a Sustainable Building Methods Workbook from applicants seeking points for photovoltaics that offset tenant loads, the proposed changes require applicants seeking a threshold basis limit increase for photovoltaics that offset tenant loads to submit a Sustainable Building Methods Workbook. The ZNE Calculation tab in the workbook ensures that all applicants seeking this increase follow the same methodology in calculating the offset of tenant load.

The proposed changes further allow rehabilitation projects seeking the threshold basis limit increase for photovoltaics offsetting tenant loads to use either of two calculators to determine solar values: 1) the CEC Photovoltaic Calculator already cited, and 2) the Expected Performance Based Buydown (EPBB) calculator, in which case the applicant shall use monthly scalars to be determined by TCAC to convert annual values to monthly values. The EPBB calculator is not appropriate for new construction projects.

Lastly, the proposed changes fill the current void on the type of documentation required to verify threshold basis limit increases for photovoltaics offsetting common area loads. The changes require the energy analyst to document the percentage of common area load offset by the photovoltaic system and how she or he arrived at this percentage. This language is identical to the verification requirements for project seeking competitive points for photovoltaics offsetting common area loads.

Section 10327(c)(5)(B)(7)

(7) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, natural linoleum, natural rubber, or ceramic tile in all kitchens, living rooms, and bathrooms (where no VOC adhesives or backing is also used). One percent (1%)

Reason: Consistent with Section 10327(c)(5)(B)(8) relating to common area flooring, the proposed changes add stained concrete to the list of flooring alternatives in living spaces that qualify for a threshold basis limit increase. The intent is to resolve inconsistencies between the two sections.

Section 10327(c)(5)(B)(8)

(8) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, ~~ceramic tile, or~~ natural linoleum, natural rubber, or ceramic tile in all common areas (where no VOC adhesives or backing is also used). Two percent (2%)

Reason: Consistent with Section 10327(c)(5)(B)(7) relating to living area flooring, the proposed changes add natural rubber to the list of flooring alternatives in common areas that qualify for a threshold basis limit increase. The changes also require that no VOC adhesives or backing be used in flooring. The intent is to resolve inconsistencies between the two sections.

Section 10327(c)(5)(B)(9)

(9) ~~Meet~~ For new construction projects, meet all requirements of the U.S. Environmental Protection Agency Indoor Air Plus Program. Two percent (2%)

Reason: The proposed changes limit the threshold basis limit increase for US EPA Indoor Air Plus Program certification to new construction projects. This program is not open to rehabilitation projects.

Section 10327(c)(5)(C)

(C) Additionally, for projects applying under Section 10326 of these regulations, an increase of one percent (1%) in the threshold basis limits shall be available for every 1% of the project's Low-Income and Market Rate U~~u~~nits that will be income and rent restricted at or below 50 percent (50%) but above thirty-five percent (35%) of Area Median Income (AMI). An increase of two percent (2%) shall be available for every 1% of the project's Low-Income and Market Rate ~~units~~ Units that will be restricted at or below 35% of AMI. In addition, the applicant must agree to maintain the affordability period of the project for 55 years (50 years for projects located on tribal trust land).

Reason: The proposed changes clarify that the threshold basis limit increase for deeper targeting are calculated using all low-income and market-rate units (i.e., all units except manager units) in the denominator. Staff believes that if a project has only 20% affordable units all affordable at 50% AMI, the threshold basis limit increase for the entire project should only be 20%, as opposed to 100%.

Section 10327(c)(5)(D)

(D) Projects requiring seismic upgrading of existing structures, and/or projects requiring toxic or other environmental ~~mitigation~~ remediation 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~~ remediation 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.

Reason: The current regulations allow a threshold basis limit increase for environmental mitigation. The intent of this provision, and TCAC's interpretation, has always been limited to water or soil cleanup, which is more commonly referred to as "remediation." In other contexts such as CEQA, the term "mitigation" has a much

broader meaning, including traffic accommodation, which has never been covered by this provision. The proposed changes substitute "remediation" in order to reduce potential confusion.

Section 10327(c)(5)(F)

(F) In a county that has an unadjusted 9% threshold basis limit for 2-bedroom units equal to or less than $350,000, a~~A~~ ten percent (10%) increase to the project's threshold basis limit for a development located in a census tract designated on the TCAC/HCD Opportunity Area Map as HIghest Resource or a five percent (5%) increase for a project in a census tract designated as High Resource.~~an area that meets all of the following criteria:~~

~~1. 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.~~
~~2. is within a county that has a 9% threshold basis limit for 2-bedroom units equal to or less than $300,000.~~
~~3. 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).~~

Reason: In 2016, TCAC adopted a threshold basis limit increase for projects located in the highest opportunity areas. The intent in part was to promote 9% large family new construction projects in high resource areas (see the discussion in Section 10325(c)(10) and the related items there, in Section 10315(h), and in Section 10325(c)(5)(A)11.) by recognizing that projects in such areas may cost more than comparable projects in other areas of the same county. The increase, however, is not limited to 9% new construction large family projects but rather is also available to any project in such locations. The intent behind this application was to use highest opportunity areas as a proxy for high-cost areas of a county and give projects in such areas extra leeway for purposes of the basis limit, the high-cost test, and the developer fee cost adjustment for 9% new construction projects.

The proposed changes make a number of refinements to this threshold basis limit increase. First, they add a 5% increase for projects in the second tier of opportunity areas, known as High Resource Areas, in addition to the existing 10% for the highest tier of resource areas. Second, they increase from $300,000 to $350,000 the threshold for 2-bedroom 9% unadjusted threshold basis limits, above which the increase is no longer available. Third, they remove the exclusion for projects outside cities of 50,000, either alone or with abutting cities. While staff continues to believe that projects in non-urbanized areas are not under the same cost pressures as ones in urban areas, irrespective of opportunity ranking, the likelihood of projects in outlying areas having the appropriate zoning and achieving maximum site amenity points is probably small enough to overlook in the interests of simplifying the rule. Fourth, the proposed changes replace the UC Davis ROI map with the recently published TCAC/HCD Opportunity Area Map as the determiner of a location's resource designation (see the discussion in Section 10325(c)(10)).

Section 10327(c)(6)

(6) Acquisition costs. All applications must include the cost ~~or value~~ of land and improvements in the Sources and Uses budget, except that (i) competitive projects with donated land and/or improvements shall include the appraised value of the donated land and improvements that is not nominal, and (ii) 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) or by a waiver pursuant to this section below for ~~for rehabilitation~~ projects basing ~~value~~ cost 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~~ cost 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). If the purchase price exceeds appraised value, the applicant shall, within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the permanent financing by the overage. For all other purposes, the project cost shall include the overage.

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 additional to the appraisal. 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. If the purchase price exceeds appraised value, the applicant shall (i) limit improvement acquisition basis to the amount supported by the appraisal and (ii) within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the permanent financing by the overage. For all other purposes, the project cost shall include the overage.~~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.~~

The Executive Director may approve a waiver to underwrite the project with a purchase price in excess of the appraised value where (i) 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, or (ii) the purchase price does not exceed the sum of third party debt encumbering the property that will be assumed or paid off.

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), no sales agreement or purchase contract is required, and TCAC shall approve a reasonable proration of land and improvement value consistent with similar projects in the market area.

Reason: The current regulations generally provide that TCAC shall underwrite rehabilitation projects and new construction projects with land acquired from a related party using the lesser of the appraised value or purchase

price. The theory is that TCAC will allow buyers to pay higher than appraised prices but will not subsidize such choices by calculating its credits on the higher price. It has come to staff's attention that the regulations are not clear how an applicant should craft an application in which the applicant is paying higher than appraised value for the property. The proposed changes seek to clarify that omission. First, the proposed changes require the applicant to state in the sources and uses budget the actual purchase price. Second, they require the applicant in the shortfall section of the basis and credits calculation to reduce both the project cost and the permanent financing by the overage. Third, rehabilitation projects must also limit improvement acquisition basis to the amount supported by the appraisal. The proposed changes further make clear that the project cost shall include the overage (i.e., reflect the full purchase price) for all other purposes, including the tiebreaker ratios. In this way, the budget will reflect the true price, the credits will be determined as if the price were the appraised value, and some other source will effectively pay for the overage.

The current regulations do allow certain projects via waiver to be underwritten at the full purchase price, namely projects in designated revitalization areas for which a local government is purchasing or providing funds for the land and determines the higher cost is justified. The proposed changes expand this current waiver to similarly situated new construction projects and allow waivers for projects in which the purchase price does not exceed the sum of third party debt encumbering the property that will be assumed or paid off. Whereas the intent of the general rule is to discourage the enrichment of sellers from overpayment, that is not the case when an applicant purchases a property for assumed debt in excess of appraised value.

Section 10327(c)(7)

(7) Reserve accounts. All unexpended funds in project reserve accounts shall remain with the project to be used for the benefit of the property and/or its residents, except for amounts designated to be used to pay deferred developer fees, which may be released as stated below. The Committee shall allow operating reserve amounts in excess of industry norms to be considered "reasonable costs," for purposes of this subsection, only for applications requesting a reservation of Tax Credits under the Nonprofit set-aside homeless assistance apportionment, as described in Section 10315(b), ~~SRO,~~ Special Needs, or HOPE VI, or project based Section 8 projects. The original Sources and Uses budget, the pro forma balance sheet and pro forma income/expense statement, and the final cost certification should demonstrate the initial and subsequent funding of the replacement and operating reserves.

Reason: Staff proposed to fold the SRO housing type into the special needs housing type (see discussion in Section 10325(g)(3)). This is a conforming change.

Section 10327(c)(10)(A)

(A) 0.3 spaces per unit for special needs projects, except that for non-special needs units in a special needs project the applicable ratios of subparagraphs (B), (C), and (D) shall apply and, for units not referenced by subparagraphs (B), (C), or (D), 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~~.

Reason: The current regulations limit the amount of basis that a new construction applicant may claim for parking for specified projects. The current regulations, however, create ambiguity on the thresholds for special needs projects because they fall under two categories: 1) this subparagraph (A) specific to special needs projects; and 2) the subsequent subparagraph (B) applicable to non-large family projects, which also include special needs projects. The proposed changes clarify that subparagraph (A) applies to special needs projects.

The changes further clarify the ratios for non-special needs units in a special needs project. For projects within ½ mile of a major transit stop, senior units shall be allowed ½ space per unit and all other units shall be allowed 1 space for unit. Senior units with projects more than ½ mile from a major transit stop are allowed 1 space per unit. All other non-special needs units in a special needs projects are allowed one space for studio and 1-bedroom units and 2 spaces for larger units.

Section 10327(c)(10)(B)

(B) 0.5 spaces per unit for ~~non-large family~~senior projects within ½ mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

Reason: The proposed changes apply the parking ratio of this subparagraph only to senior projects or units within ½ mile of a major transit station. This clarifies that subparagraph (A) governs special needs projects.

Section 10327(d)(2)

(2) Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications proposing a project meeting the Special Needs housing type threshold requirements at Section 10325(g)(4~~4~~3) as a difficult development area (DDA).

Reason: The proposed change reflects the renumbering of Section 10325(g)(4).

Section 10327(f)

(f) Determination of feasibility. To be considered feasible, a proposed project shall exhibit positive cash flow after debt service for a 15-year minimum term beginning at stabilized occupancy, or in the case of acquisition/rehabilitation projects, at the completion of rehabilitation. "Cash flow after debt service" is defined as gross income (including all rental income generated by proposed initial rent levels contained within the project application) minus vacancy, operating expenses, property taxes, service and site amenity expenses, operating and replacement reserves, and must pay debt service (not including residual receipts debt payments). Expenses that do not continue through all 15 years of the pro forma shall be excluded from the evaluation of feasibility as well as of the minimum debt service coverage ratio and cash flow parameters pursuant to Section 10327(g)(6). Applications that qualify for a reservation of Tax Credits from the Nonprofit set-aside homeless assistance apportionment, or from the Special Needs~~/SRO~~ set-aside as described in subsections 10315(b) and (e), operating reserves in excess of the 3-month minimum amount may be added to gross income for purposes of determining "cash flow after debt service."

Reason: Staff proposes a number of changes to this section. First, similar to Section 10327(g)(1), the proposed changes clarify that on-going site amenity expenses (currently internet service and transit passes) are not counted towards the minimum operating expense requirements.

Second, the proposed changes exclude from the pro forma any expenses that do not continue through all 15 years. Applicants have sought to meet TCAC's cash flow parameters in years one through three by loading additional expenses, such as reserve contributions, into those years. While the applicant may choose to have

such expenses, they will be deleted from the pro forma when staff evaluates feasibility, the debt service coverage ratio, and cash flow. Debt services payments are distinct from expenses.

Third, staff proposes to fold the SRO housing type into the special needs housing type (see the discussion in Section 10325(g)(3)). The proposed changes to this section include a conforming change.

Fourth, the current regulations allow special needs projects to draw on operating reserves in order to break even through all 15 years of the pro forma. The proposed changes clarify that such drawdowns are limited to reserves in excess of the required 3-month operating reserve. The 3-month operating reserve is intended to cover unforeseen decreases in cash flow, not planned deficits.

Section 10327(g)(1)

(1) Minimum operating expenses shall include expenses of all manager units and market rate units, and must be at least equal to the minimum operating expense standards published by the Committee staff annually. The published minimums shall be established based upon periodic calculations of operating expense averages annually reported to CTCAC by existing tax credit property operators. The minimums shall be displayed by region, and project type (including large family, senior, and ~~SRO/~~Special Needs), and shall be calculated at the reported average or at some level discounted from the reported average. The Executive Director may, in his/her sole discretion, utilize operating expenses up to 15% less than required in this subsection for underwriting when the equity investor and the permanent lender are in place and provide evidence that they have agreed to such lesser operating expenses. These minimum operating expenses do not include property taxes, replacement reserves, depreciation or amortization expense, compliance monitoring or lender fees, or the costs of any site or service amenities. Out-year calculations shall be a two-and-one-half percent (2.5%) increase in gross income, a three-and-one-half percent (3.5%) increase in operating expenses (excluding operating and replacement reserves set at prescribed amounts), and a two percent (2%) increase in property taxes. However, where a private conventional lender and project equity partner use a 2% gross income and 3% operating expense increase underwriting assumption, CTCAC shall accept this methodology as well.

Reason: Staff proposes to fold the SRO housing type into the special needs housing type (see the discussion in Section 10325(g)(3)). The proposed changes to this section include a conforming change.

Similar to Section 10327(f), the proposed changes further clarify that on-going site amenity expenses (currently internet service and transit passes) are not counted towards the minimum operating expense requirements. They also clarify that compliance monitoring and lender fees are not counted towards minimum operating expense requirements.

Section 10327(g)(3)

(3) ~~Vacancy and collection loss minimums shall be five percent (5%) for family, seniors, and at-risk proposals, and~~Vacancy and collection loss minimums shall be ten percent (10%) for special needs units and non-special needs SRO ~~proposals~~units without a significant project-based public rental subsidy, unless waived by the Executive Director based on vacancy data in the market area for the population to be served. Vacancy and collection loss minimums shall be five (5%) for all other units.

Reason: The current regulations establish underwriting vacancy rates at a project level. The proposed changes apply vacancy rates to the types of units within a project. A project with varying unit types will then have a blended vacancy rate that is weighted by the number of units to which each rate is applicable.

The current regulations also apply a 10% vacancy rate to special needs projects unless waived by the Executive Director. Most waiver requests involve units with significant rental assistance, and staff believes units with such assistance should automatically have a 5% vacancy rate without a waiver. The proposed changes apply the 10% vacancy rate only to special need units and non-special needs SRO units that do not have significant rental subsidy. Applicants may still seek a waiver for such units without a rental subsidy. While "significant" is not defined, subsidies such as Section 8 or Los Angeles' Flexible Housing Subsidy Pool are clearly significant. The intent of this word is to give TCAC some discretion to reject minimal rental subsidies that appear intended to evade the vacancy rate requirements.

Section 10327(g)(6)

(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.~~

Reason: Currently, TCAC will not issue 8609 tax forms to a project that does not meet the regulatory cash flow parameters. The applicant must take on additional hard debt, reduce rents, increase services, or otherwise come into compliance. TCAC could also consider issuing negative points for an applicant who refused to comply. While the regulations mention reducing the credit award, TCAC does not do that, nor is there a clear methodology for doing so. As a result, the proposed changes delete this superfluous sentence and a related subsequent sentence.

Section 10328(g)

(g) Reservation Exchange ~~for High-Rise Projects~~. A ~~High-Rise Project~~project with a reservation of Federal Credit pursuant to Section 10325~~,~~ and a carryover allocation pursuant to Section 10328(d) and IRC Code § 42(h)(1)(E) that meets either of the following criteria~~,~~ may elect to return all of the Federal Credit ~~during the year immediately following the year in which the carryover allocation is made~~ in exchange for a new reservation and allocation of Federal Credits from the year immediately following the year in which the initial

reservation and carryover allocation were made. ~~An election to return Federal Credits pursuant to this subsection may be made only during January of the calendar year directly following the year in which the initial reservation and carryover allocation are made.~~ The reservation and carryover allocation of the Federal Credits returned pursuant to this ~~subsection~~ subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant specifying the returned credit amount and the effective date on which the credits are deemed returned. The Committee shall concurrently issue a new reservation of Federal Credits to the project in the amount of the Federal Credits returned by the project to the Committee.

(1) A High-Rise Project that returns all of the Federal Credit only during January of the year immediately following the year in which the initial reservation and carryover allocation were made.

(2) A project which prior to the placed in service deadline the Executive Director finds, in his or her sole discretion, merits additional time to place in service because development was significantly delayed due to damage directly caused by fire, war, or act of God. In considering a request the Executive Director may consider, among other things, the extent of the damage, the length of delay, the time remaining until the project's placed in service deadline, and the circumstances causing the damage.

Reason: The current regulations permit only a high-rise project to exchange the credit year, which has the effect of extending a 9% project's federal placed in service deadline by one year. The proposed changes also allow a credit year exchange in the event that a development is significantly delayed due to damage directly caused by fire, war, or act of God. To the extent that a project can be salvaged and brought on line with a reasonable time extension, staff believes it is appropriate in many cases to give an extension for such dramatic occurrences beyond an owner's control. That said, the language provides the Executive Director the discretion to deny a request for any reason, including for any of the listed considerations.

Section 10330(b)

(b)(1) ~~Timing~~Procedure for application appeals. ~~The~~ An appeal related to an application 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 seven (7) days after receipt of the appeal letter. If the applicant ~~is not satisfied with~~wishes to appeal the staff response, the applicant may appeal in writing to the Executive Director within ~~seven~~ five (5) days after receipt of the staff response letter. The Executive Director will respond in writing no more than ~~seven~~ five (~~7~~5) 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~~ five (5) 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 to CTCAC. No Committee 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. Any appeal or response due on a weekend or holiday shall be deemed to be due on the following business day.

(2) Procedure for negative point or fine appeals. An appeal related to negative points or a fine must be submitted in writing and received by the Committee or no later than fourteen (14) day following the transmittal

of a negative point or fine letter, unless the Executive Director grants an extension which shall not exceed fourteen (14) additional days. The appeal shall identify specifically the applicant's grounds for the appeal.

The Executive Director will respond in writing no more than seven (7) days after receipt of the appeal, unless the appellant requests an extension to accommodate a meeting, which shall not exceed fourteen (14) additional days. If the applicant wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than seven (7) days following the date of receipt of the Executive Director's letter. An appeal to the Committee must be accompanied by a five hundred dollar ($500) non-refundable fee payment payable to CTCAC. No Committee appeals will be addressed without this payment.

Reason: The current regulations provide three types of appeals: 1) those related to competitive application issues; 2) those related to negative points; and 3) those related to fines. The procedures for appeal, however, are written for and really only appropriate for application appeals. The proposed changes, first, establish a separate process with a more relaxed schedule for negative point and fine appeals. Under this procedure, appellants have 14 days to file the initial appeal and may request an extension for an additional 14 days. The initial appeals go directly to the Executive Director, as opposed to staff, with a second appeal to the Committee. In addition, the deadline for the director's response may be delayed to accommodate an appellant's request for a meeting.

Second, for appeals related to applications, staff proposes to shorten the second and third appeal and response deadlines from seven to five days. Appeals often jeopardize the schedule for recommending competitive awards to the committee. Staff believes that applicants should have a full week to prepare the initial appeal and that less time is necessary for subsequent appeals given the time pressures of the competition. The language further clarifies that if the fifth day falls on a weekend or holiday, the deadline shall be the following business day.

Third, the proposed changes eliminate the fee for all appeals to the Executive Director and impose the fee only for appeals to Committee. Staff believes that all staff-level appeals should be free but that a fee for Committee appeals remains appropriate.

Section 10335(c)

(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~~shall pay a ~~one time~~ fee ~~to CTCAC. This fee, in the amount~~ of five hundred dollars ($500) ~~must be paid~~ to CTCAC. The fee~~, and~~ must accompany the ~~original~~ appeal letter to the Committee.

Reason: Consistent with the changes proposed in Section 10330(b), the proposed changes to this section eliminate the fee for all appeals to the Executive Director and impose the fee only for appeals to Committee. Staff believes that all staff-level appeals should be free but that a fee for Committee appeals remains appropriate.

Section 10335(g)

(g) Tax form amendment fee. An owner who requests an amendment to 8609 or 3521A tax forms shall pay a fee of $1000 unless the Executive Director determines that the amendment is necessary due to a CTCAC error.

Reason: Owners and TCAC staff spend a significant amount of time preparing, reviewing, and correcting placed in service packages in order to issue 8609 tax forms. Too frequently, after all this effort and the issuance of the forms, owners request amendments for reasons other than TCAC error. Most amendments require a recalculation of the credits, which involves revision to various documents, or an amendment to the regulatory agreement. Both take significant staff time. With more due diligence or better communication between owners and investors, most of these amendments could easily be avoided. In recognition of the increased costs to TCAC to process such amendments, the proposed change imposes a $1000 fee for tax form amendments, unless the Executive Director determines that the amendment is necessary due to a CTCAC error. TCAC will not charge a fee if it is responsible for the error.

Section 10337(a)(3)(A)

(A) the ~~Sponsor~~ owner shall in good faith apply for and accept all renewals available;

Reason: Whereas sponsor is a somewhat ambiguous term, the proposed changes clarify that when a project receives renewable rental assistance or operating subsidy, the owner shall apply for and accept all renewals available.

Section 10337(a)(3)(B)

(B) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall notify CTCAC in writing immediately and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the recorded CTCAC regulatory agreement. Upon documenting to CTCAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for ~~Rent Restricted~~Low-Income Units above the levels allowed by the recorded regulatory agreement up to the federally-permitted maximum. Rents shall be raised only to the extent required for Financial Feasibility, as determined by CTCAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by TCAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's Financial Feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). This is a conforming change to reflect the new definitions.

Section 10337(b)(3)

(3) Homeless youth and federal student rule. After the 15-year federal compliance period has lapsed, units in a special needs project designated at reservation for homeless youth may be occupied entirely by full-time students who are not dependents of another individual.

Reason: For the duration of the 15-year compliance period, federal law prohibits occupancy of tax credit units by all full-time students with specified exceptions. Tax credit units are not meant to serve as an alternative to university dorms. Within the subsequent 40-year state extended use period, states have flexibility with the student rule. Staff generally believes that the student rule is appropriate for the entire 55-year compliance

period and is reluctant to establish different rules for projects in the federal and state compliance periods. Nonetheless, staff believes that an exception in the state extended use period is warranted for residents of homeless youth projects, who generally have little family to fall back on for support and by definition are between 18 and 24 years of age. Specifically, the proposed changes allow units in a special needs project designated at reservation for homeless youth to be occupied entirely by full-time students who are not dependents of another individual during the extended use period.

Staff cautions owners that, at resyndication, units not in compliance with the stricter federal student rule will be ineligible for tax credits.

Section 10337(c)(1)

(1) Record keeping. The owner of a Credit project is required to keep records for each qualified low income building in the project for each year in the compliance period showing: the total number of residential rental units in the building (including the number of bedrooms, and unit size in square feet); the percentage of ~~residential~~ Low-Income and Market Rate ~~rental units~~ Units in the building that are ~~low~~Low-~~income~~ Income ~~units~~Units; the rent charged for each Low-Income U~~u~~nit; a current utility allowance as specified in 26 CFR Section 142.10(c) and Section 10322(h)(21) of these regulations (for buildings using an energy consumption model utility allowance, that allowance must be calculated using the most recent version of the CUAC); the number of household members in each Low-Income U~~u~~nit; notation of any vacant Low-Income ~~units~~Units; move-in dates for all Low-Income ~~units~~Units; low-income ~~tenant's~~ tenants' (i.e., household) income; documentation to support each low-income household's income certification; the eligible basis and qualified basis of the building at the end of the first year of the Credit period; and, the character and use of any nonresidential portion of the building included in the building's eligible basis.

Upon request, scattered site projects shall make these records available for inspection by CTCAC staff at a single location.

Reason: Staff proposes to create three classifications of units (see the discussion under Section 10302(jj)-(nn)). The proposed changes to this section simply clarify which universe of units is applicable to each data point. Owners must maintain unit counts and square footages for all non-manager units in order to calculate a project's applicable percentage. For all other data, owners need only maintain the data relevant to low-income units.

Section 10337(f)(3)

(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)(2)~~, except that CTCAC shall not collect a fee for the appeal to the Executive Director~~.

Reason: Staff proposes in Section 10320(b) to exempt all appeals to the Executive Director from the appeal fee and impose the fee only for Committee appeals. As a result, the proposed changes delete this superfluous exemption from the appeal fee for fine-related appeals to the Executive Director.