PUBLIC COMMENTS RECEIVED DURING PUBLIC HEARINGS AND COMMENT PERIOD

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

November 27, 2018

Written public comments were received during the 54-day Public Comment Period, September 14, 2018 through October 29, 2018. Public hearings were held on September 24 in Oakland, September 25 in Sacramento, September 27 in Los Angeles, and October 3 in San Diego. The comments received at each of the public hearings and the written comments received during the Public Comment Periods are set forth below. The table also contains staff responses to the comments, an explanation of any revisions (see the 2018 Final Proposed Regulation Changes for actual revision language), as well as the statement of reasons for two additional emergency regulation changes described in Items 82-83.

Item #	Section	Public Comments	Staff Comments/Recommendations
1	10315(b) – Housing First	I work with a number of different affordable developers that do a lot of homeless, and not one of them has the same model. What I have found is that the Housing First model works well for some and doesn't work at all for others. SB 1380 commanded any state program that provides housing for the homeless to incorporate the core tenants of Housing First into the program. I believe that word "incorporate" has a lot more flexibility than the position TCAC's currently proposing, which is mandating Housing First. Instead of mandating every special-needs project to use Housing First, you could give them a priority for the first half of the nonprofit homeless apportionment, like our USDA funding gets 14% of the rural set-aside. I would have zero problem if the state was saying we want Housing First projects, which we all know are really important to reducing calls for services and General Fund expenditures on the homeless, getting some kind of priority inside of the nonprofit homeless apportionment, maybe until the first 25% of the money was gone. But to incorporate it into the regulations as a mandate for all special-needs projects for the homeless is too broad of a way to incorporate it. So I am not supportive of the way it's being proposed, and TCAC has until July of 2019 to coordinate with the Council and talk about ways to incorporate it. (William Leach, Kingdom Development) We're a homeless assistance program in Vista that assists homeless families. We object to the mandate on Housing	Staff disagrees with the comments that SB 1380 is something other than a mandate to use Housing First principles in all projects with units dedicated to homeless persons. Moreover, the Homeless Coordinating and Financing Council which is tasked to implement the law endorsed TCAC's proposed regulation change. To the extent that the commenters oppose such a mandate, staff believes the commenters need to take the issue up with the Legislature. Staff proposes an amendment to the proposed language to clarify that the Housing First mandate only applies to the units designated for homeless households.

		First. It assumes that TCAC shall become an instrument to eliminate tax credit funding for homeless assistance programs that choose alternative approaches to address homeless. We gladly walk away from programs that require Housing First and Coordinated Entry. But the only ability for us to continue to create affordable housing for families and for kids is through tax credit allocations. So by essentially saying you have to knuckle under and comply with Housing First in order to be eligible for tax credit allocation funding for affordable housing is just another way that we're not going to be able to serve homeless families and kids. Housing First poorly serves homeless families and kids, particularly in California. So with this type of rule going into effect, there would practically be zero dollars for building affordable housing for what we would consider homeless families and kids that are not homeless enough, and we think that that's a real problem. We also feel that this proposal undermines the aspects of homeless assistance programs that lead to empowerment and wellness. The jury is essentially still out as to whether Housing First as an approach is really moving people out into market-based rents and housing, but it certainly is doing a great job of keeping people contained in subsidized housing. We're also concerned that Housing First explicitly prohibits accountability. Our families, the families that we serve, most of them, about 70 to 80 percent have some kind of substance abuse background. They come to our program because they know that we will help them remain healthy and we'll expect accountability, so that they can not only protect themselves but protect their kids and end the cycle of homelessness and poverty. We don't think that mandating Housing First strategy for affordable housing programs that are getting tax credit financing really lends itself to helping these folks stay on their course of maintaining sobriety and helping their kids break, not only the traumatization of growing up in substance abuse, but also poverty and homelessness. We're not suggesting that everybody be mandated to use our model, but what we're saying is give us an opportunity and give us some flexibility so that we can live within the means by which we can continue to provide affordable housing. We think that this rule contributes to the	

		one-size-fits-all approach, and it fails to recognize other effective approaches solving homelessness. Instead of requiring projects funded under the homeless assistance priorities within the nonprofit set-aside to follow the statutory mandated Housing First criteria, I think there are some opportunities to give points or to provide set asides. And I think that making it an overarching requirement is not the only way to incorporate it in the rulemaking for TCAC. (Paul Webster, Solutions for Change) We greatly appreciate TCAC changes to existing regulations to comply with Senate Bill 1380 (Mitchell). These changes will ensure projects funded are following evidence-based practices, and will allow some of the most vulnerable Californians to access tax credit properties. (Sharon Rapport, CSH)	
2	10315(b) – Coordinated Entry	We strongly agree with TCAC's recommended change to adopt the requirement to lease up through referrals through a community's coordinated assessment and entry system to the second priority homeless assistance projects. This change brings TCAC in line with requirements in SB 1380, and follows national requirements and best practices, as well as the State's Housing & Community Development Department guidelines. (Sharon Rapport, CSH)	No changes.
3	10315(i)	While we appreciate TCAC's thoughtfulness in anticipating Hollister's transformation from a rural to urban community, we oppose this addition to the Central Coast region without any corresponding apportionment increase. When population, economy, and development challenges are considered, the central coast region is already one of the most competitive geographic regions and adding even more competition to this pool will only make it more difficult to build more projects in this region. Additionally, we feel that San Benito County would be a better fit with the Central Valley region. It's small population, agricultural economy, and land use more closely align with the predominantly rural counties in the Central Valley region than those of the Central Coast. Multiple Legislative Analyst Office reports site the lack of affordable housing in California's coastal region as one of the driving factors of our state's housing crisis. While	When TCAC calculates regional apportionments, it considers only non-rural population. Whereas Hollister's population is only 38,000, the impact of the proposed change on the statewide regional apportionment percentages would be insignificant. Staff continues to believe that Hollister is more appropriately paired with the Central Coast region than with the Central Valley region. It is more geographically connected and its economy and housing market are more related to Watsonville and Salinas than with Los Banos and more far-flung Central Valley cities. No changes.

		solving the affordability problem on the coast will not solve this problem alone, it will certainly be a good start and may alleviate pressure on adjacent housing markets. Increasing the central coast's apportionment – not simply the level of competition – can make meaningful improvements to our state's housing crisis. (John Fowler, People's Self-Help Housing)	
4	10317(g)(2)	PV appreciates the clarification and supports this revision. (Amy Anderson, PATH Ventures) SCANPH agrees with this proposed change as it will help deals adversely affected by DDA/QCT map adjustments that wish to offset loss of boost by applying for competitive State credits. (Valerie Acevedo, Southern California Association of Non Profit Housing; Brian D'Andrea, Century)	No changes.
5	10317(g)(2)		No changes.
6	10317(i)(6)		No changes.
7	10317(l)	We continue to support CTCAC's efforts to avoid the excess allocation of state tax credits and agree that a $5 million cap will likely be helpful. (Caleb Roope, Pacific West Communities) I prefer a per-unit cap rather than a flat number. That way larger projects wouldn't be disincentivized, especially the larger hybrid projects that, by getting the State Credits, can then assign more basis to the 4% component and generate additional 4% credits. (William Leach, Kingdom Development) Creating a maximum award of $5 million for one project is problematic and will specifically impact larger projects, special needs projects, projects with a high number units for families (3 bedrooms or larger), and projects in high opportunity areas that have higher costs. We recommend that TCAC create a formula for an award cap that is similar to the federal cap that provides a leveling ("equivalency") factor between DDA/QCT and non-DDA/QCT requests. (Stephen Russell and Laura Nunn, San Diego Housing Federation) We oppose limiting any single project to $5 million in State	Staff finds compelling the comments that the proposed $5 million cap on state credit awards will make larger projects, which TCAC hopes to encourage, infeasible. Moreover, while the overallocation of state credits remains an issue for the foreseeable future, the credit exchanges allowed under the current regulations were able to manage the overallocation for 2018 at least. As a result, staff proposes to withdraw the proposed addition of Section 10317(l) with the $5 million cap on state credit awards and instead require in Section 10317(c) that all projects maximize federal credits before seeking state credits in the same manner as double-dipping special needs projects now must do. This revision will address both the overallocation of state credits and the unfair tiebreaker advantage available to projects that can voluntarily reduce their federal basis request because they are eligible for state credits. At the same time, the revision will not hurt the ability to finance larger projects because state credit awards will still be unlimited. So that all non-special needs projects can have equal

		LIHTC. Perhaps the limit should be imposed on a per unit basis with no max overall cap. Establishing a project cap may inadvertently discourage development of large family or special needs units that may cost more and require more state credits to finance. (Michelle Muniz, Affirmed Housing) While the Supportive Housing Alliance understands the issue driving this regulation change, many projects are made feasible through the combination of federal and state credits; Special Needs projects in particular require higher levels of subsidy due to numerous requirements imposed upon them. This proposed change will make the financing of Special Needs developments even more challenging. The SHA recommends excluding Special Needs developments that set aside at least 50% of their units for special needs households from this cap. The SHA would also support continuation of the requirement that a project maximize its federal tax credit request prior to requesting state credits. (Dora Gallo, A Community of Friends; Amy Anderson, PATH Ventures; Anita Nelson, SRO Housing; Lisa Watson, Downtown Women's Center; Becky Dennison, Venice Community Housing Works; Channa Grace, W.O.R.K.S.; Cristian Ahumada, Clifford Beers Housing; Nancy Lewis, Nancy Lewis Associates, Inc.; Neil McGuffin, Little Tokyo Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) NPH believes that there may be a more effective and equitable method to prevent the over allocation of state credits than through the proposed $5 million limit. As TCAC acknowledges, the current formula overly advantages projects that are in non-DDAs and QCTs by exempting state credits from the $2.5MM federal credit cap, and also encourages large projects in DDAs and QCTs to forgo the 130% boost and apply for state credits, in order to take advantage of this loophole. NPH members do not believe that the inequity between DDA/QCT and non-DDA/QCT projects should continue any longer, as there is no public purpose to allowing non-DDA/QCT projects to access more overall competitive credits. But, rather than creating a $5 million cap, which partly tempers but does not solve the	access to state credits, the proposed revision would continue to allow a project in a Difficult Development Area (DDA) or Qualified Census Tract (QCT) to opt out of the 130% basis boost and seek state credits. However, all projects seeking state credits would be limited in their ability to reduce their basis request. Specifically, such an applicant would be prohibited from voluntarily reducing basis 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 maximum federal credit award. The proposed revision would further allow TCAC to revise an applicant's basis and credit request as needed to meet this requirement. Staff is intrigued by the comments highlighting the loophole in the federal credit limit and suggesting an equivalency test such that projects seeking state credits are not able to access a larger combination of state and federal credits that those seeking solely federal credits. Staff may consider this idea in a future regulation change round but believes it is too significant of a change to propose in these revisions. Staff also would need to balance this concept with the concerns about making larger projects infeasible.

		inequity, we believe that TCAC should establish the creation of an “equivalency factor” in competitive applications. The equivalency factor should be designed to ensure that applicants who access federal plus state credits should not receive equity that is any more or any less than applicants who seek federal credits only. The equivalency factor should essentially convert the forgone 130% boost to a state credit allocation amount which results in approximately the same investor equity amount as a federal-only project receiving the boost. The formula should take into account the pricing differential between federal and state credit, which can be based on average pricing from the prior round. And TCAC should no longer allow a DDA/QCT applicant to opt out of the 130% boost (though this formula, if implemented fairly, would neutralize the impact and remove the motivation to opt out.) NPH believes that this limitation should be phased in over one year to give developers time to adjust to the proposed limitations on state credits. Note that NPH does not suggest using a cap or equivalency factor on Special Needs projects that are permitted to access both the 130% boost and state credits. (Amie Fishman, Non-Profit Housing Association of Northern California) Meta understands the reason for this proposed change and is not opposed to this concept, but we do have some major concerns about the implementation of such a change, should this take effect. The primary concern is the negative impact this change will have on legacy projects that have already received project entitlements and are relying on these state credits for financial feasibility and may have already submitted to TCAC. State Credits have always been a relied-upon source to help close the gap and to suddenly take them away from one round to the next will render some projects that have already received significant investments infeasible. As an example, Meta has a 110-unit family/supportive housing project in the City of Los Angeles’ Managed Pipeline that was submitted last round and requested over $12M in state credits and did not win (CA-18-121 Arminta Square Apartments). We have been working with the City of Los Angeles for several years on this project and it is intending to reapply for credits in the 1st	

		round of 2019. If the state credits are suddenly reduced this project would lose $5-$6 million of financing and will be infeasible, with no reasonable alternative to finance it under its current entitlements. This would require the project to be redesigned and re-entitled as a smaller project and that could take 6-9 months, if even feasible. This proposed change conflicts directly with TCAC's stated goal of encouraging larger projects. Should TCAC decide it needs to move forward with this new cap we would propose the following solutions to avoid unnecessarily penalizing this deal or any other deals that developers may have been working on that need these state credits to close the funding gap: • Grandfather deals that were already submitted and allow them to request a larger amount of state credits until they are awarded. • Delay the implementation of this change one year and make it effective 1st round 2020 so developers have a year to adjust and plan for a change as significant as this. (in the past TCAC has usually delayed the roll out and implementation of a major financial change that would have a huge negative impact on projects). • Offset the loss with an increase of federal credits to still allow for larger projects to be built. Last year TCAC proposed an increase of federal credits to $3 million and we were supportive of that change. If TCAC is now considering reducing the state credits perhaps it should also reconsider this increase to the federal credit for large projects. (Kasey Burke, Meta Housing Corporation) It is time to close the loophole that has, for many years, allowed non-QCT/DDA projects, or QCT/DDA projects that choose to forgo the 130% boost, access to uncapped state tax credits that provide for equity far in excess of that raised from the $2.5 million federal credit cap. However, rather than applying an aggregate cap on just the state tax credits, TCAC should cap state credits using a leveling factor ("equivalency factor") derived from the same aggregate cap that projects with federal only credits are required to use, i.e., $2.5 million. TCAC should establish this equivalency factor	

		in competitive applications to equalize the DDA/ACT and non-DDA/QCT credit requests. The equivalency factor should be designed to ensure that applicants who access federal plus state credits should not receive equity that is any more or any less than applicants who seek federal credits only. The equivalency factor – which can be outlined in regulations and further detailed in the application -- should convert the forgone 130% boost to a state credit allocation amount which results in approximately the same investor equity amount as a federal-only project receiving the boost. The formula should take into account the pricing differential between federal and state credits, which can be based on average pricing from the most recent prior round. Unlike the $5 million cap, the equivalency factor is equitable to applicants with projects of any size. Further, TCAC should no longer allow a DDA/QCT applicant to opt out of the 130% boost (though this formula, if implemented fairly, would neutralize the impact and remove the motivation to opt out.) We would be happy to provide a suggested methodology template for the equivalency factor in Excel. However, the state credit limit recommended above should not be used for Special Needs projects that are eligible to receive both the DDA/QCT boost and state credits, since the purpose of this change in law was to make Special Needs projects financially feasible. Special Needs projects should remain subject to the current regulations governing state credits. Finally, there are pipeline projects that have been structured pursuant to the current regulations. In fairness to the developers of these projects and their public agency partners, TCAC should defer any new caps or formulas regarding state credits until 2020. *Recommendation:* Equalize and cap the equity available to both QCT/DDA and non-QCT/DDA projects by establishing an equivalency factor to cap state credits, so that both categories of projects, regardless of project size, receive the same amount of equity, i.e., as would be available from a maximum of $2.5 million in federal credits. Exempt Special Needs projects from the cap. Defer implementation of any changes until 2020. (Richard Mandel, California Housing Partnership Corporation)	

		PV understands the challenge with the over utilization of the state tax credits, but does not agree that a blanket $5,000,000 cap for all projects is appropriate. In recent years, TCAC has encouraged large projects, yet the cap on federal credits, in conjunction with a cap on state credits is counter to this policy objective. PV recommends that TCAC require that federal credits are maximized before gaining access to an uncapped allocation of state credits, similar to the change created for Special Needs projects. If folks are not maximizing their federal allocation, then the recommended cap may be appropriate. In any event, the cap is far too low for large and Special Needs projects that are maximizing additional subsidies from local and state sources in order to make those projects feasible. While, it has been suggested that another way to make such large projects feasible is to utilize the Hybrid 4%/9% structure, but PV believes the additional cost and complexity created by that structure means it should only be utilized as a last resort. PV also recommends that any implemented policy that caps state credits should not apply to competitive 4% plus state credit projects, since TCAC does not allow competitive state credits to be oversubscribed. Therefore a cap on competitive state credits would not impact the over utilization of state credits. In the event that any change is approved, it should be delayed to 2021 to allow developers time to adapt to their pipeline. (Amy Anderson, PATH Ventures) We understand TCAC's concern about projects using state credits rather than maximum federal credit. But we are concerned about the impact of this cap on large projects TCAC wants to incentivize. So we recommend imposing a cap (perhaps $6-$7m rather than $5m) only on projects not using maximum federal credit. (Kevin Knudtson, Elissa Dennis, Diana Downton, Lisa Motoyama, Zohreh Khodabandelu, and Shannon Dodge, Community Economics) CCRH agrees with TCAC's reasoning that projects shouldn't be allowed to boost their tiebreaker score by getting a lot of state credits while not maximizing their federal credits. However, we feel the proposed $5 million state credit cap is	

		in direct conflict with TCAC's goal of incentivizing larger projects that need both the full $2.5 million federal credit cap as well as all the state credits which their project basis deems eligible. We propose that the TCAC language be revised to read, "The maximum State Tax Credits available for award to any one project in any funding round that is not maximizing its federal credits shall not exceed Five Million ($5,000,000) Dollars." (Rob Wiener, California Coalition for Rural Housing) SCANPH understands TCAC's need to limit state credits, however, we believe the proposed $5 million cap is too low, especially for large developments or projects with greater than 50% special needs that require additional tax credit equity to be financially feasible. These projects, along with 4% competitive projects, should be permitted to apply for additional state credits beyond $5 million. We recommend TCAC only impose the $5 million cap on projects that are not maximizing federal credits. If a developer has maximized the federal credits, then there should not be a limit on the State credits. To impose a limit on State credits for projects that are maximizing their federal credits would discourage developers from building large projects, which are a cost effective way of delivering affordable housing. If a developer chooses not to maximize federal credits, then SCANPH agrees the $5 million cap should be implemented. Relying on the 9%, 4% hybrid option as a means to address larger projects would only add to development costs and so therefore we believe including this language will be important to maintaining competitive latitude in the application process. (Valerie Acevedo, Southern California Association of Non Profit Housing) The reason provided by TCAC stated that "Most projects receiving a large state credit award are not requesting the maximum amount of federal credits." However, the largest state credit award in recent years was in the first round of 2017 and was made to Beacon Pointe in Long Beach, a 160-unit project that had in fact received the full $2.5 million federal tax credit award. The second largest state credit award was in the second round of 2018 to Elden Elms, a 93-	

		unit project in Los Angeles that had also received the full $2.5 million federal tax credit award. Therefore, it is incorrect to posit that projects receiving the largest state credit awards are not maximizing the federal credits. If there are in fact some projects that are not maximizing their Federal credits before requesting State credits, then the most direct way to address that issue would be not to limit state credits per project, but instead to require that projects maximize their federal credits before requesting state credits. Or to require that any project requesting state credits above $5 million must first maximize their federal credits. An additional reason for this proposed change provided by TCAC indicates that "the lack of limit on state credit awards unduly enlarges the set-asides which reduces the credits available in the regions in future rounds." However, in the first round of 2018, there were 8 awards for state credits, 7 of which were in the rural set aside and 5 of those were asks that were not above $5 million. Thus, there were only 2 requests out of 8 that were above $5 million. In the second round of 2018, none of the five projects that received state credits received more than $5 million in state credits. Thus, it seems that state credit awards above $5 million are not actually the driver that is "unduly enlarging" the set asides. The most direct way to address the "unduly enlarging" of the set asides would be to require that projects maximize their federal credits before requesting state credits. This proposal to limit state credits regardless of whether a project is maximizing their federal credits will make it even more difficult to finance large projects. The State of California is in a housing crisis and needs as much affordable housing developed as possible and large projects are an efficient way to provide a large number of affordable housing units at one time. This proposed limit would make large projects financially infeasible. Such a limitation on state credits should only be made alongside a $500K increase in federal credits (equating to a $5 million increase over the 10-year credit period) at least for large projects over 100 units, as contemplated in last year's proposed regulation changes. CTCAC could alternatively require that any project requesting state credits above $5 million also maximize the federal credits to avoid penalizing large projects. The	

		suggested alternative of relying on the 9%/4% hybrid as a means of addressing larger projects ignores the more complicated structure which is likely to add time and the higher ancillary consultant costs thus negatively impacting efficient development in comparison to utilizing Federal and State credits combined. Any limitation on the amount of State credits available, must not take effect for at least one year following the change because there is not enough time between now and the first TCAC round in March to find additional sources to make impacted projects financially feasible. (Alexander Pratt, AMCAL Multi-Housing, Inc.) We oppose this change. We recommend that TCAC apply the $5 million cap only to those deals with less than 50% special needs or 4% competitive projects. Larger developments with greater than 50% special needs units and/or 4% competitive projects require deeper subsidy and should be permitted to apply for additional state credits. (Brian D'Andrea, Century) We understand that TCAC's goal in this proposal is to reduce the over-allocation of state credits. We think there are alternate ways to do this that would also bring better parity to DDA/QCT projects with non DDA/QCT projects. In particular, we suggest you consider the disparity between the maximum credit allocation for a DDA/QCT project ($2.5 million federal credit) vs. a non DDA/QCT project ($2.5 million federal credit plus $8.3 million state credit). This creates an incentive for DDA/QCT projects to elect to opt out of that status and instead pursue state credits, which they otherwise would not pursue, leading to more demand for state credit. If the maximum credits requests were more comparable (using a conversion factor for the state credits) this would leave more state credits available for the non DDA/QCT projects. (Alice Talcott, MidPen Housing) While we agree TCAC should limit State credit allocations in cases where the applicant is not maximizing federal credits, we believe that this change will unnecessarily hamper efforts to deliver large scale supportive housing projects. We join others in recommending the following	

		language instead: "The maximum State Tax Credits available for award to any one project in any funding round that is not maximizing its federal credits shall not exceed Five Million ($5,000,000) Dollars." State credits are an essential funding mechanism for our larger permanent supportive housing projects, both 4% and 9%, and we hope TCAC will reconsider its approach. (Ed Holder, Mercy Housing) We believe the proposed $5 million cap is too low, especially for large developments or projects with greater than 50% special needs that require additional tax credit equity to be financially feasible. We recommend TCAC only impose the $5 million cap on projects that are not maximizing federal credits. If a developer has maximized the federal credits, we recommend eliminating a limit on the State credits. To impose a limit on State credits for projects that are maximizing their federal credits would discourage developers from building large, dense projects, even though these projects can reduce per-unit costs. (Sharon Rapport, CSH) HCIDLA recommends TCAC staff reconsider the proposal to cap the State Credit award amount. TCAC states that only a few of the awarded projects are receiving extremely large state credit awards. TCAC notes that 14 of the 43 projects in 2017 and first round of 2018 received state credits in excess of $5 million, totaling 32.5% of the projects. However, in the City of Los Angeles set-aside, there were a total of 3 out of 5 awarded projects that requested state credits and exceeded the proposed $5 million cap, totaling 60% of the City of Los Angeles projects. A proposed cap would have significantly impacted the projects in the City of Los Angeles has such a cap existed. Furthermore, the HCIDLA recently admitted thirteen new projects into its Affordable Housing Managed Pipeline program. The admitted projects are selected from a competitive process. The selection includes the availability of City resources, which include estimated low-income tax credits. In addition, the HCIDLA also administers the City's Proposition HHH Supportive Housing Loan Program, which funds housing specifically	

		targeted to individuals and families experiencing homelessness. The Proposition HHH Supportive Housing Loan Program also has an outstanding list of projects that were awarded based on proposed City funding and estimated tax credits. The HCIDLA currently estimates at least fourteen projects are proposing to apply for State credits, out of which, nine will exceed the proposed $5 million cap, totaling 64% of the projects. The nine projects are estimated to request approximately $78.6 million in state credits. If the projects are capped at a $5 million request, the cap would create an approximate gap of $33.6 million in state credits. The HCIDLA is unable to cover the financing gap created by the proposed reduction in available state credits. Therefore, as proposed, the $5 million cap would make the admitted projects with proposed state credits exceeding the proposed cap automatically infeasible. HCIDLA understands TCAC's dilemma of over allocating state tax credits, however, implementing such cap would negatively affect a significant number of projects in the City of Los Angeles. If TCAC needs to impose a cap on the state credits, HCIDLA requests TCAC delay implementation to allow time for current City Pipeline projects to move forward with the anticipated funding proposed in their applications. (Edwin Gipson, Los Angeles Housing and Community Investment Department) Considering the high cost environment that exists in many metropolitan areas in California, this cap will likely harm large projects that need more than $5 million in state credits after exceeding the $2.5 million federal credit cap. Either the cap should be raised to ensure that the Program can fund the most competitive projects throughout the state regardless of size, or it should be applied differently to different sized projects. (Smitha Seshadri, BRIDGE Housing)	
8	10322(e)		No changes.
9	10322(f)		No changes.
10	10322(h)(9)	While we conceptually understand what CTCAC staff may be trying to achieve with this change in an effort to limit system abuses, treating demolition costs as punitive in the tie-breaker system discourages the pursuit of sites with existing buildings and thwarts the public policy benefits of	Staff withdraws this proposed change.

		cleaning up blight. What will be next - discounting pubic funds by the cost of environmental remediation? While CTCAC's longstanding practice of discounting public funds for off-site improvements seems somewhat reasonable to prevent local government from piling on self-serving public benefits in exchange for funding, the demolition of existing buildings provides local government with no financial benefit. To avoid system abuse, CTCAC already has a practice for removing the value of existing buildings to be demolished when local government leases or contributes the site. As a further negative consequence from this proposed change, all new construction projects with existing buildings of any type or size (i.e. even old sheds, outbuildings, obvious tear-down single-family homes) will be subject to the wasted time and costs associated with obtaining an appraisal, even when the demolition of these structures has nothing whatsoever to do with the public funding involved with the project. Finally, this proposed policy runs contrary to Housing Element law which has encouraged local governments to rezone commercial and industrial sites for housing, which sites often have abandoned or underutilized structures. Why should these sites be at a disadvantage? This proposed change is terrible and should either be eliminated entirely or narrowly focused on the actual problem, which is not entirely clear to us from the reasoning provided. (Caleb Roope, Pacific West Communities) NPH opposes this change. Urban infill sites often include structures that will be demolished in an effort to increase density or change the use altogether. These are the very same sites that the regulations otherwise favor with their focus on proximity to transit and other amenities. Acquiring low-density sites should be encouraged rather than discouraged by the regulations. Further, market-based land purchase price, or a highest-and-best-use land appraisal, should already take into account the impact on land value of existing structures, which, in most cases, would simply be demolition cost. Existing structures on a site generally have no intrinsic value if the highest and best use is superior and would replace the existing structure. As this is the case in a significant majority of developments, this unnecessary	

		requirement will add complexity and cost to projects. If TCAC does go forward with this proposal, we suggest that staff explicitly add a requirement that the appraisal assign a value to the buildings on the site- there currently is no such requirement and that is not something that appraisers would typically break out. (Amie Fishman, Non-Profit Housing Association of Northern California) PV opposes the change in the tie breaker at Section 10325(c)(9)(A) and to the extent TCAC abandon's that proposed change, there should be a conforming correction here. (Amy Anderson, PATH Ventures) We support this change. (John Fowler, People's Self-Help Housing) SCANPH firmly opposes proposed change #39 and, therefore, also firmly opposes this regulation. (Valerie Acevedo, Southern California Association of Non Profit Housing) We oppose this new requirement. This is an unnecessary and confusing complication that will potentially disadvantage infill sites and add cost to projects that don't currently require an appraisal. We do not understand TCAC's concern about the value of buildings that will be demolished. Many infill development sites have some sort of structure on them, and we cannot buy the land without the buildings. The entire acquisition cost is all a legitimate project cost, so we do not understand the rationale for potentially reducing the tiebreaker as a result of having buildings on the site. Moreover, the market value of a site is based on its Highest and Best Use, which if the appraiser concludes is as vacant land, will presumably lead to a conclusion that the buildings on the site have no value. If that is the case in a high majority of cases, this requirement will simply add complication and cost to projects. If TCAC does go forward with this proposal, we suggest that you also add a requirement that the appraisal assign a value to the buildings on the site- there currently is no such requirement and that is not something that appraisers would	

		typically break out. (Alice Talcott, MidPen Housing) As this regulation change is proposed to conform to a later proposed change we oppose, we oppose this regulation as well. (Sharon Rapport, CSH)	
11	10322(h)(9)		No changes.
12	10322(h)(9)		No changes.
13	10322(h)(9)		No changes.
14	10322(h)(10)	We support this change. (John Fowler, People's Self-Help Housing)	No changes.
15	10322(h)(10)		No changes.
16	10322(h)(10)		No changes.
17	10322(h)(10)	We support eliminating the project's lifetime rental benefit required in the market study. (Michelle Muniz, Affirmed Housing; Alice Talcott, MidPen Housing) We are especially thankful for items like this that reduce workload. (Susan Reynolds, Community Housing Works)	No changes.
18	10322(h)(30)	We thank TCAC staff for recommend this change and support any efforts to simplify or streamline the application process. (John Fowler, People's Self-Help Housing)	No changes.
19	10322(h)(32)		No changes.
20	10322(h)(33)-(35)		No changes.
21	10322(i)(2)(A)		No changes.
22	10322(k)		No changes.
23	10325(c)(4)(A)		No changes.
24	10325(c)(4)(A)1.		No changes.
25	10325(c)(4)(A)2.	The Supportive Housing Alliance opposes excluding pocket parks for the purpose of obtaining site amenity points under this section. Pockets parks are increasingly common in dense urban areas where land for larger parks is scarce. Eliminating pocket parks as a site amenity option could exclude potential development sites in infill areas where many SHA developments are built. While pocket parks do not offer the magnitude of open space or the recreational opportunities available at larger-scale parks, they do offer valuable open space and green areas for area residents and are often heavily utilized. (Dora Gallo, A Community of Friends; Amy Anderson, PATH Ventures; Anita Nelson, SRO Housing; Lisa Watson, Downtown Women's Center; Becky Dennison,	TCAC has never awarded site amenity points for pocket parks or greenbelts. The proposed changes merely codify this policy. Whereas pocket parks and greenbelts do not offer the magnitude of open space or the recreational opportunities available at larger-scale parks, staff does not believe that they are worthy of site amenity points. Staff is not concerned that the change could make some infill sites uncompetitive because it is the inherent goal of the site amenity point category to identify those sites with the highest level of amenities. Staff notes that infill sites are likely to be close to other amenities that will score maximum points even without providing points for a pocket park or greenbelt.

		Venice Community Housing Works; Channa Grace, W.O.R.K.S.; Cristian Ahumada, Clifford Beers Housing; Nancy Lewis, Nancy Lewis Associates, Inc.; Neil McGuffin, Little Tokyo Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) NPH appreciates the clarity that these amendments provide. Given that much of our membership operates in areas with access to "greenbelts", "pocket parks" and "open space preserves", we propose that TCAC further define these terms and allow for outdoor areas with a wide range of types of recreational facilities to count as parks. (Amie Fishman, Non-Profit Housing Association of Northern California) PV certainly agrees that access to public open space is an important amenity that benefits all of our residents. PV supports the change to require an entrance or access point within the specified distance, but opposes the prohibition of pocket parks and greenbelts. First, it would be helpful if TCAC provided a definition of these terms to help us evaluate its impact. Second, PV suggests that a public park not be assessed by its size, but quality, ease of access, and distance to that space. If a pocket park or greenbelt is designated as a park by a public parks department and the public has easy access to experience the outdoors, it ought to garner public park points. If there are qualifying amenities or standards that TCAC thinks are important to the enjoyment of a public park, it would be helpful for TCAC to engage in a discussion with the developer community to expand on what standards are appropriate. PV is concerned that this will limit development in urban infill areas. (Amy Anderson, PATH Ventures) We support. It is helpful to have this type of added specificity in the regulations, particularly for site amenities which play a major role in initial site selection. We suggest TCAC also provide a definition of a "greenbelt" and "pocket park". In particular, does a park have to be a minimum size or have specified amenities in order to not be a "pocket park"? (Alice Talcott, MidPen Housing)	While staff acknowledges that further definition of terms would be helpful, staff is not prepared to do so at this time given the countless variables involved and therefore the extreme complexity of doing so. Staff will continue to exercise its judgment in determining what qualifies for points. The proposed change provides at least some additional guidance. No changes.
26	10325(c)(4)(A)8.	NPH members agree with and appreciate this change. Given	Staff believes it is appropriate to adopt similar

		that there are other public amenities material to tax credit scoring (i.e. parks) that may also be under construction at the time of application, TCAC should include other publicly accessible amenities to be subject to the same rule for they follow the spirit and intent of this proposed regulatory change. (Amie Fishman, Non-Profit Housing Association of Northern California) We support. We suggest that additional public owned amenities be allowed to be under construction at the time of application, particularly parks. (Alice Talcott, MidPen Housing)	allowances for other site amenities at this time but will consider such additional changes in a future regulation change cycle. No changes.
27	10325(c)(4)(A)11.		No changes.
28	10325(c)(4)(B)		No changes.
29	10325(c)(4)(B)		No changes.
30	10325(c)(4)(B)	The Supportive Housing Alliance supports this change. Due to the typical length of contracts with governmental agencies that service providers often rely on, obtaining commitments of any length of time from service providers, particularly so early on in the process, is challenging. Similarly, service providers have often been reluctant to commit dollar amount for services for the same reasons. This requirement was also unnecessary given that the applicant is already required to commit to providing the services for the full 15 years. (Dora Gallo, A Community of Friends; Amy Anderson, PATH Ventures; Anita Nelson, SRO Housing; Lisa Watson, Downtown Women's Center; Becky Dennison, Venice Community Housing Works; Channa Grace, W.O.R.K.S.; Cristian Ahumada, Clifford Beers Housing; Nancy Lewis, Nancy Lewis Associates, Inc.; Neil McGuffin, Little Tokyo Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) SCANPH agrees with this change as we believe it is advisable to simplify the documentation requirements for a service provider. (Valerie Acevedo, Southern California Association of Non Profit Housing) We agree with this change. Simplifying the documentation requirements for a service provider is advisable. (Brian D'Andrea, Century)	No changes.

		We support changes to this section that simplify documentation from the service provider that the application must include. (Sharon Rapport, CSH)	
31	10325(c)(4)(B)		No changes.
32	10325(c)(6)(A)		No changes.
33	10325(c)(7)	We appreciate anything that CTCAC does to reduce the time and cost burden associated with the program, and we support the elimination of this documentation requirement. (Caleb Roope, Pacific West Communities) We support the elimination of a construction lender trade payment breakdown of approved construction costs by the 180- or 194-day deadline. (Michelle Muniz, Affirmed Housing) The Supportive Housing Alliance agrees with this change as it will simplify readiness requirements by eliminating unnecessary documentation. (Dora Gallo, A Community of Friends; Amy Anderson, PATH Ventures; Anita Nelson, SRO Housing; Lisa Watson, Downtown Women's Center; Becky Dennison, Venice Community Housing Works; Channa Grace, W.O.R.K.S.; Cristian Ahumada, Clifford Beers Housing; Nancy Lewis, Nancy Lewis Associates, Inc.; Neil McGuffin, Little Tokyo Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) We support the elimination of this requirement. (John Fowler, People's Self-Help Housing) We agree with this change because we believe the provision of the construction lender trade breakdown is gratuitous. A recorded trust deed is sufficient to demonstrate that the loan has closed and that the lender's requirements have been met. (Valerie Acevedo, Southern California Association of Non Profit Housing; Brian D'Andrea, Century)	No changes.
34	10325(c)(7)		No changes.
35	10325(c)(7)	We support elimination of the LOI letter required at 90 days. (Michelle Muniz, Affirmed Housing)	No changes.

		The Supportive Housing Alliance supports this change given that all documentation required by TCAC can be provided at the 180- or 194-day readiness deadlines. As TCAC notes, the consequences of missing the larger deadlines are severe enough that projects will stay on track without this 90-day requirement. (Dora Gallo, A Community of Friends; Amy Anderson, PATH Ventures; Anita Nelson, SRO Housing; Lisa Watson, Downtown Women's Center; Becky Dennison, Venice Community Housing Works; Channa Grace, W.O.R.K.S.; Cristian Ahumada, Clifford Beers Housing; Nancy Lewis, Nancy Lewis Associates, Inc.; Neil McGuffin, Little Tokyo Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) We are especially thankful for items like this that reduce workload. (Susan Reynolds, Community Housing Works) We support the elimination of this requirement. (John Fowler, People's Self-Help Housing) We agree with this change as we believe the provision of a letter of intent is gratuitous considering the larger readiness deadline. (Valerie Acevedo, Southern California Association of Non Profit Housing; Brian D'Andrea, Century)	
36	10325(c)(7)		No changes.
37	10325(c)(8)(A)	We oppose this change, as it both disincentivizes a developer to pursue maximum yield tax credit pricing, while simultaneously providing a double financial hit to projects that receive bids below the estimated pricing. Instead, we recommend that TCAC solve this problem by holding the developer harmless for any variation in tax credit pricing. While we can make educated guesses about tax credit price, it is impossible to predict and largely out of the control of the applicant to determine this pricing. Therefore, it should not fall on the developer if price variation occurs between application and receiving a letter of intent from an investor. (John Fowler, People's Self-Help Housing) Federal credits, unlike state credits, have specific geographic distributions. When there are credits remaining in a Geographical Region, those credits roll over to the next	Staff is aware that credit exchanges can affect investor equity contributions, but ensuring exact equivalence in equity is beyond staff's capacity as it is a function of the investor's calculation of internal rate of return which TCAC is neither privy to nor able to verify. This is exactly the reason that staff is proposing a concrete formula, and this formula based on application pricing assumptions has been used to calculate all credit exchanges to date. Moreover, staff believes that using the application credit pricing assumptions for both directions of exchange will encourage applicants to be as realistic as possible with those assumptions. The federal credits awarded via these exchanges are taken from the Second Supplemental Set-Aside, as stipulated by the current regulations.

		round. SCANPH requests that the regulations clarify where federal credits for a specific project would be allocated from and that the credits not leave their specified Geographic Region. (Valerie Acevedo, Southern California Association of Non Profit Housing)	No changes.
38	10325(c)(8)(B)	We appreciate the simplifications to this section. (Alice Talcott, MidPen Housing) I support the proposed changes with some amendments: • In the first sentence add "for mobility features complying with Sections 11B-809.2 through 11B-809.4 to clarify that the special dwelling unit requirements for accessible routes, kitchens and toilet/bathing facilities are included for persons with mobility impairments as intended; • Rewrite the first bullet to state "Doors and gates with clear widths of 34 inches or greater." Accessible route requirements outside of the dwelling unit should be addressed in a separate paragraph. Language should be added to clarify unit entry gates are included. "Or greater" is better understood than "minimum width." • Amend the second bullet to use "or greater" as it is better understood than "minimum width." • In the bullet concerning the master bedroom, clarify that studio units need not provide the required clearance space around the bed. • Specify the design and construction standard for the doorbells (11B-809.5.5.1). • Add a new paragraph to clarify the accessible route requirements for the property, specifically that accessible routes are required from site arrival points to the unit; from the units to other common area features and onsite support services; and within all spaces and elements required to be accessible onsite. This paragraph should also specify 36" or greater door and gate widths and 42" or greater hallways and corridors. • Add language to codify the existing TCAC policy that accessible parking requirements are not increased beyond building code requirements as a result of the additional accessible units required by TCAC. (Tim McCormick, McCormick and Associates)	The intent of this proposed change was to eliminate redundancies between the TCAC regulations and the California Building Code as a clean up measure. In drafting them, staff consulted with the Division of State Architect, who oversees accessibility codes. The comments make clear that there is disagreement in the larger community over what is redundant and what is additional. Since it was not staff's intent to make substantive changes to this section, staff withdraws this proposed change, keeping the existing language intact.

		We support the rationale provided for the proposed amendments to this section. However, some of the items proposed for deletion provide additional accessibility beyond Chapter 11B of the California Building Code. • DRC does not support the deletion of "Interior doors with lever hardware" in the second bullet as it would result in less accessibility. Section 11B-309.4 of the California Building Code sets requirements for doors. It does not require lever hardware which provides greater accessibility for people with disabilities who have limited use of their hands or inability to grip. This requirement should remain in this section of the TCAC regulations. • In the third bullet we support deleting the reference to Ch. 11A as that chapter does not provide as much accessibility as Ch. 11B. However, we urge TCAC to maintain the second sentence of this bullet point because it would provide greater clearance for someone in a wheelchair than Ch. 11B. • As with the bathroom clearance, the fourth bullet also provides greater clearance for someone in a wheelchair. We urge TCAC to maintain this provision. • We urge TCAC to maintain the master bedroom square footage requirement in the first sentence of the fifth bullet point. The requirement does not appear in Ch. 11B and would help provide accessibility to people with mobility disabilities. We are not opposed to the proposed deletion in the rest of the bullet as those requirements already appear in Ch. 11B. • We are not opposed to the change in the sixth bullet. • We are not opposed to the change in the seventh bullet. (Kara Brodfuehrer, National Housing Law Project; Natasha Reyes and Dara Schur, Disability Rights California)	
39	10325(c)(9)(A) – Buildings to be demolished	While we conceptually understand what CTCAC staff may be trying to achieve with this change in an effort to limit system abuses, treating demolition costs as punitive in the tie-breaker system discourages the pursuit of sites with existing buildings and thwarts the public policy benefits of cleaning up blight. While CTCAC's longstanding practice of	Whereas the current regulations have deducted the value of demolished buildings from the value of donated land for purposes of the tiebreaker since 2011, the proposed change was intended to level the playing field for projects with soft loans and demolished buildings. A land donation and a loan to purchase land

		discounting public funds for off-site improvements seems somewhat reasonable to prevent local government from piling on self-serving public benefits in exchange for funding, the demolition of existing buildings provides local government with no financial benefit. To avoid system abuse, CTCAC already has a practice for removing the value of existing buildings to be demolished when local government leases or contributes the site. As a further negative consequence from this proposed change, all new construction projects with existing buildings of any type or size (i.e. even old sheds, outbuildings, obvious tear-down single-family homes) will be subject to the wasted time and costs associated with obtaining an appraisal, even when the demolition of these structures has nothing whatsoever to do with the public funding involved with the project. Finally, this proposed policy runs contrary to Housing Element law which has encouraged local governments to rezone commercial and industrial sites for housing, which sites often have abandoned or underutilized structures. Why should these sites be at a disadvantage? This proposed change is terrible and should either be eliminated entirely or narrowly focused on the actual problem, which is not entirely clear to us from the reasoning provided. (Caleb Roope, Pacific West Communities) The proposed change to discount from public funds the value of existing buildings that will be demolished is problematic for urban infill and high opportunity sites. In almost all cases these sites will have an existing structure that will need to be demolished and reducing the value of the site based on that structure negatively impacts applications for projects in infill or high opportunity sites. We recommend removing this from the proposed regulations or, at a minimum, including some provision for consideration of what is being demolished (old commercial uses, low density, etc.). (Stephen Russell and Laura Nunn, San Diego Housing Federation) This change will penalize urban areas that are more likely to have some type of improvements on their land versus vacant land projects in less dense/suburban neighborhoods. While	are generally fungible. Nonetheless, staff finds compelling that comments that TCAC should not deduct the value of demolished buildings from the tiebreaker credit in either case. Appraisals may already account for the cost of demolition, and demolition is a necessary project cost similar to environmental remediation and unlike ineligible off-site improvements. As a result, staff proposes to withdraw the proposed change deducting the value of buildings to be demolished from public funds and further proposes to delete the statement relating to land donations that "Building values shall be considered only to the extent that those existing buildings are to be retained for the project." Please note that staff has also withdrawn the proposed change in Section 10322(h) requiring an appraisal for projects with buildings to be demolished. This revision also will ensure a level playing field for projects with land donations versus public funds, albeit by removing tiebreaker reductions to both.

		we currently do not have any project with existing building to be demolished, we suggest TCAC track projects to see if this regulation change will impact production. (Tung Tran, Jamboree Housing) We oppose discounting the tiebreaker value of soft leveraged financing by the value of buildings that will be demolished as it discourages urban infill projects. (Michelle Muniz, Affirmed Housing) The Supportive Housing Alliance opposes this change as many of the developments built by SHA members have been located in infill areas on underutilized commercial and residential lots that require demolition of existing structures. Development on such sites accomplishes multiple public policy goals, including curtailment of urban sprawl and often, developing sites that are considered blighted. Many of these urban infill sites are located within close proximity of transit and amenities. By discounting public funds by the value of existing structures, TCAC disadvantages such projects. Demolition is a necessary part of redevelopment and as such should be compared to environmental mitigation of the land, which is not penalized by the CTCAC regulations. In the event this change is approved, the SHA requests that its implementation be delayed at least until 2021 to allow developers time to adapt their pipelines. Additionally, developers are not generally overpaying for land with existing buildings as properly done appraisals for the as-is value of a site will take the demolition cost of the building into account if the highest and best use is determined to be a newly constructed building or entirely different use. In this situation, the existing building doesn’t contribute to the value of the site; rather, the appraiser would determine an estimated value based on comparable vacant sites and then reduce the value by the cost of demolition. (Dora Gallo, A Community of Friends; Amy Anderson, PATH Ventures; Anita Nelson, SRO Housing; Lisa Watson, Downtown Women’s Center; Becky Dennison, Venice Community Housing Works; Channa Grace, W.O.R.K.S.; Cristian Ahumada, Clifford Beers Housing; Nancy Lewis, Nancy Lewis Associates, Inc.; Neil McGuffin, Little Tokyo	

		Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) NPH opposes this change. Urban infill sites often include structures that will be demolished in an effort to increase density or change the use altogether. These are the very same sites that the regulations otherwise favor with their focus on proximity to transit and other amenities. Acquiring low-density sites should be encouraged rather than discouraged by the regulations. Further, market-based land purchase price, or a highest-and-best-use land appraisal, should already take into account the impact on land value of existing structures, which, in most cases, would simply be demolition cost. Existing structures on a site generally have no intrinsic value if the highest and best use is superior and would replace the existing structure. As this is the case in a significant majority of developments, this unnecessary requirement will add complexity and cost to projects. If TCAC does go forward with this proposal, we suggest that staff explicitly add a requirement that the appraisal assign a value to the buildings on the site- there currently is no such requirement and that is not something that appraisers would typically break out. (Amie Fishman, Non-Profit Housing Association of Northern California) This policy is biased against urban infill sites, including such sites in rural communities, which often include structures that will be demolished in an effort to increase density or change the use altogether. These are the very same sites that the regulations otherwise favor with their focus on proximity to transit and other amenities. Acquiring low density sites should be encouraged rather than discouraged by the regulations. Further, market-based land purchase price, or a highest-and-best-use land appraisal, should already take into account the impact on land value of existing structures, which, in most cases, would simply be demolition cost. The existing structures generally have no intrinsic value if the highest and best use is superior and would replace the existing structure. The new requirement would add time and cost for unnecessary appraisals for third-party land transfers with existing buildings. *Recommendation*: Do not add a tie-	

		breaker discount relating to value of buildings to be demolished. (Richard Mandel, California Housing Partnership Corporation; Rob Wiener, California Coalition for Rural Housing) It is unclear what is the public policy concern that is driving this change. Securing soft financing is not the same as a land donation, nor is the demolition of existing improvements a mandate by the public lender or public entity. So it's hard to see the nexus between demolition of improvements and public funds when the land is bought privately. Many urban, infill development sites have existing, underutilized improvements on the site that must be demolished to make way for its highest and best use. Development on such sites accomplishes multiple public policy goals, including curtailment of urban sprawl and often, developing sites that are considered blighted. Many of these urban infill sites are located within close proximity of transit and amenities. By discounting public funds by the value of existing structures, TCAC disadvantages such projects. Also, the cost of demolishing these improvements is often taken into account in the appraised value, which discounts the highest and best use value by the cost to demolish the existing improvements, so the value is effectively zero. In other cases, the as-is value may give some credit to the value of existing improvements, but that is just part of the land acquisition cost. In the event that TCAC moves forward with this change, PV requests that it's implementation be delayed until 2021 to allow developers time to adapt to their pipelines. (Amy Anderson, PATH Ventures) We do not support the proposed requirement to discount the tiebreaker value of soft leveraged financing by the value of buildings that will be demolished. As the State of CA and TCAC are both encouraging the development of affordable housing in urban infill, transit oriented and higher opportunity areas, it is more and more likely that such property will have existing structures, businesses and housing, operating or vacant. The proposed requirement makes it more difficult for projects to invest in the very sites that are optimal – a performing site in a high opportunity	

		area, or a site in need of additional density to take advantage of nearby transit. We support the removal of this discount from either public or privately owned land. As many developers have already purchased land, at a minimum, we encourage TCAC to grandfather in projects that purchased the property in the last five years. (Susan Reynolds, Community Housing Works) We support this change. (John Fowler, People's Self-Help Housing) SCANPH firmly opposes this proposed change because the majority of available sites in urban areas with access to ample amenities and public transit have some existing structure that is often considered blight or underutilization of land and requires demolition. Demolition is a necessary part of redevelopment, and, unlike off-site improvements, gives no added value to the surrounding area. By discounting public funds by the value of these existing structures, TCAC would disincentivize development and redevelopment of infill sites by making it less likely that these infill developments will win tax credit awards. It seems this proposal benefits mostly projects in undeveloped areas since there is very little vacant land left in urban communities, especially in desirable High and Highest Resource areas. This change would only further drive urban sprawl in areas that are poor in amenities. To encourage continued development in urban areas, the tiebreaker value of soft leverage financing should not be discounted and the demolition of such buildings should instead be compared to environmental mitigation of the land, which is not penalized by the TCAC regulations. We strongly advocate that this change not go into effect and ask that implementation of this change, should it be approved, be delayed until 2020 in order to allow developers to adapt their projects. (Valerie Acevedo, Southern California Association of Non Profit Housing) This proposal benefits only rural and exurban areas, since there is very little vacant land left in urban communities, especially in desirable High and Highest Resource areas. ln	

		addition, appraisers tend to overvalue dilapidated existing buildings by underestimating the cost of rehabilitation. By discounting public funds by the appraised value of these structures, TCAC would make it less likely that these infill developments will win tax credit awards and would, therefore, support projects in undeveloped, exurban areas driving further sprawl in areas that are poor in amenities. ln an era of climate change, the affordable housing development community should support infill development in urban areas that are rich in resources and access to transit, bicycling, and pedestrian networks. (Alexander Pratt, AMCAL Multi-Housing, Inc.) We oppose this change. The reality of infill development is that existing structures often need to be demolished to pave the way for a higher and better use of land. A discount to the tiebreaker value of soft leveraged financing penalizes infill development and runs contrary to the principles of transit oriented development. (Brian D'Andrea, Century) We oppose this new requirement. This is an unnecessary and confusing complication that will potentially disadvantage infill sites and add cost to projects that don't currently require an appraisal. We do not understand TCAC's concern about the value of buildings that will be demolished. Many infill development sites have some sort of structure on them, and we cannot buy the land without the buildings. The entire acquisition cost is all a legitimate project cost, so we do not understand the rationale for potentially reducing the tiebreaker as a result of having buildings on the site. Moreover, the market value of a site is based on its Highest and Best Use, which if the appraiser concludes is as vacant land, will presumably lead to a conclusion that the buildings on the site have no value. If that is the case in a high majority of cases, this requirement will simply add complication and cost to projects. If TCAC does go forward with this proposal, we suggest that you also add a requirement that the appraisal assign a value to the buildings on the site- there currently is no such requirement and that is not something that appraisers would typically break out. (Alice Talcott, MidPen Housing)	

		We have significant concerns with this proposed change because the majority of available sites in urban areas with access to ample amenities and public transit have an existing blighted structure that requires demolition. Demolition is a necessary part of redevelopment, and, unlike off-site improvements, gives no added value to the surrounding area. In discounting public funds by the value of these existing structures, TCAC would disadvantage urban communities and properties with existing structures. This change would only further drive urban sprawl in areas that are poor in amenities. We therefore recommend removing this proposed change. (Sharon Rapport, CSH) The HACSB opposes this proposed change because infill sites often do have existing structures, and demolition of existing structures can maximize site utilization. Demolition of existing structures is part of the site and land preparation that can lead to better utilization and ultimately, a better planned community. Vacant sites are not as commonly available and or require significant offsites or rezoning, such as commercial sites rezoned for residential. To incentivize infill development, threshold basis increases should be made available for demolition, more dense redevelopment and land preparation that includes demolition and other environmental abatement. To encourage continued development in infill sites, the tiebreaker value of soft leverage financing should not be discounted and the demolition of such buildings should instead be viewed similarly to environmental mitigation of the land, which is not penalized by the TCAC regulations. We strongly advocate that this change not go into effect or provide an exception for HUD Rental Assistant Demonstrations conversion projects that involve demolition of existing structures. (Veronica Zimmerman Garcia, Housing Authority of the City of San Buenaventura) Many urban infill projects require the purchase of underutilized and blighted sites that include a structure for a former use – the costs to buy land and a structure are actual costs borne by the project. Affordable developers should not be penalized for selecting good urban infill opportunities that	

		have existing underutilized and oftentimes mismanaged structures. This policy could unduly disadvantage urban infill projects over greenfield projects. (Smitha Seshadri, BRIDGE Housing)	
40	10325(c)(9)(A) – Community Foundations	We oppose the removal of local community foundation funds, as leveraged soft resources. These sources of funds have provided opportunities to develop affordable housing in the communities in our region, and the removal of such, will do nothing but impose additional barriers to develop affordable housing at a time when it can't be built fast enough, due to the supply/demand crisis our State currently faces. I urge you to leave local community foundation funds in place in the regulations as a leveraged soft resource. (Gus Becerra, Regional Housing Authority) While we understand the reason to remove the reference "funds from a local community foundation" from paragraph (i), the 55 years term restriction under soft loans under paragraph (ii) will penalize private and/or other capital providing soft loans. If the goal is to incentivize capital to make investment in affordable housing, TCAC should recognize that there could be potentially many sources desiring a shorter term. We suggest having soft loans be 15 years to be consistent with the public funds loan. (Tung Tran, Jamboree Housing)	The proposed change continues to give tiebreaker credit for soft loans from community foundations. It simply treats the foundations as a private lender rather than a public lender, thereby requiring certification that the foundation has the funds and has received no benefit from any parties related to the development. The prospect of a soft loan maturing during the 55-year compliance period is troubling because a project often will have no way to pay it off, and foreclosure wipes out the affordability restrictions. Staff is less concerned about this scenario in the case of a public entity, but staff believes it is prudent to avoid this scenario with private lenders. No changes.
41	10325(c)(9)(A) – Partial land donations	I believe this proposal is counterproductive and unnecessary. Providing credit for a below market purchase helps to contain costs by providing additional incentive to negotiate lower prices with property sellers. This means less public resources are required to build affordable housing. The TCAC regulations already contain a safeguard against inflated appraisals by allowing TCAC to engage an appraisal reviewer, and it seems inconsistent to trust appraisals for wholly donated land but not partially donated land. It may be true in certain instances that the below market sale component of the tiebreaker leads to getting credit when the seller believed the negotiated sale was at a market-rate price. However, even in those cases, that is not a good reason to eliminate the below market sale tiebreaker. The test should be not whether the seller thinks he received a market rate price, but on what an appraisal supports. If this proposals is	Staff finds the compelling the comments related to partial donations from public entities. Whereas staff's concerns regarding applicants seeking donation credit for transactions which seem to involve market-rate purchase agreements with arms-length sellers has been limited to transfers from private entities for existing affordable properties, staff proposes an amendment to allow tiebreaker donation credit for rehabilitation project subject to an existing regulatory agreement with TCAC or a federal, state, or local public entity or with greater than 25% of the units receiving project-based rental assistance only if the land and improvements are wholly donated. All other projects may receive tiebreaker donation credit for partial or whole donations. This revision is a much narrower application of the original proposed change tailored to

		adopted in any form, I highly recommend that TCAC delay implementation of the provision for at least three funding rounds to give projects that are already underway an ability to compete before the change becomes effective. (John Polanskey, Housing Authority of the County of Santa Barbara) Many jurisdictions have policies regarding the donation of land and leases for publicly-owned land that make these changes problematic. We recommend that TCAC do more research to better understand local land donation policies as well as ground lease structures to better understand standards throughout the state to create more nuanced policies for the intent of this change. TCAC should at least allow the portion of the donation from the public agency to be counted and recognize the difference between the appraised value and below market ground lease payment when considering leases. The stricter policies proposed make more sense as they relate to private party land donations and leases, but more flexibility is needed for publicly held land. (Stephen Russell and Laura Nunn, San Diego Housing Federation) We oppose disallowing tiebreaker credit for land and improvements unless they are wholly donated as some jurisdictions have a policy to donate only a portion or percentage of land and/or improvements. (Michelle Muniz, Affirmed Housing) While the intent of the proposed change is understandable, its scope goes too far and would do more harm than good. Whether land is conveyed in fee or as a ground lease, many public agencies donate some but not all of the land's value and seek compensation for the remainder. This can stem from myriad factors, including some public agencies' statutory constraints. For example, the Los Angeles County Metropolitan Transportation Authority, which has undertaken a major policy initiative to foster affordable housing developments around transit stations, cannot discount parcels by more than 1/3 below fair market value. But, whether a parcel is donated in whole or in part, every dollar of value should be counted as public funds, as every	the projects of greatest concern. Such existing affordable projects sold by private parties generally sell at or above their market value rather than below. Staff proposes a further amendment to clarify that donations from public entities may involve both land and improvements, consistent with the language in the rest of the section.

		dollar represents a government agency's conscious decision not to seek cash compensation for the full value of its asset in order to facilitate affordable housing development. If TCAC wishes to prohibit applicants from receiving tiebreaker advantage for appreciated value of land purchased from nongovernmental owners, the regulations could simply disallow any value in excess of the original sale price, as evidenced by the purchase contract. In addition, we suggest that the language be added to make it clear that on multi-parcel sites, a land donation of one parcel can continue to be counted even if another parcel is at market value. (Amie Fishman, Non-Profit Housing Association of Northern California; Richard Mandel, California Housing Partnership Corporation; Rob Wiener, California Coalition for Rural Housing) This change causes us concern. It would needlessly burden our Joint Development Program, which is a force for positive change in Los Angeles. Under this program, we lease our land, typically located at or near Metro transit stops, to private developers for the construction of housing, retail and other opportunities. The housing component of this program currently provides approximately 2,200 housing units (700 of which are affordable), but, more importantly, we are in agreements with developers to provide up to an additional 2,240 housing units (1,225 of which are affordable). Delivery of these units is subject to funding availability, among other things. Partial land discounts are becoming an important funding resource for these projects. We use these discounts to reduce ground rent when needed to support affordable housing. With construction costs on the rise, this resource is becoming that much more important. These discounts are applied in accordance with existing Metro policy and other applicable regulations. All discounts are approved by the Metro board of directors in accordance with existing policy. This policy allows a discount in the fair market ground rent of up to 30%, if the developers prove that this discount is necessary to make their projects pencil. Discounts for projects situated along federally-funded transit corridors require Federal Transit Administration ("FTA") approval in accordance with FTA regulations. These	

		regulations allow us to discount the "Fair Share of Revenue" the FTA typically requires from these projects, provided that such "Fair Share of Revenue" is based on the revenue generated by the affordable housing project. So, even if were inclined to provide a 100% discount on our ground lease rent to take advantage of tiebreaker credits under the revised regulations, our Metro board adopted policy and the FTA regulations WOULD NOT authorize us to do so. In fact, such donation might be considered a gift of public funds, without a corresponding benefit. If TCAC regulations are changed to disallow tiebreaker credit for partial land discounts, certain affordable housing projects on Metro land would be unfairly penalized. Without the leveraging credit associated with such discounts, these projects would be unable to compete with other projects for the limited tax credits that TCAC allocates. With so many affordable housing units on the horizon, it is important that all funding resources remain available and are treated equally by TCAC. We urge you not to disallow tiebreaker credit for partial land discounts as part of your regulation changes. (Jenna Hornstock, Los Angeles County Metropolitan Transportation Authority) PV understands the concern that such discounts may be negotiated in the private market for the sole purpose of boosting the tie-breaker. But some public agencies are prohibited from donating 100% of the land value. For example, LA Metro is authorized to sell below market value, but they cannot donate the full value. The work and complexity of acquiring a site with a public agency, at any discount, is hard earned and a prorated tie-breaker boost is warranted. In addition, many public land donors require an annual lease payment greater than $100. PV recommends the proposed language only apply to private land transactions. (Amy Anderson, PATH Ventures) We do not support the proposed option to disallow tiebreaker credit for land and improvement donations from either a public or private entity unless the land and improvements are wholly donated. There are multiple situations where a donation can be made for part of the value of land and/or	

		improvements, or where a partial payment must be made. Such discounted land and improvements are very important to offset the high costs of developing in California. Sometimes these partial donations are the only tools that agencies have to assist the creation of affordable housing. We believe that sufficient documentation can allow these partial donations to continue. (Susan Reynolds, Community Housing Works) CEI recommends this be revised so that partial land and improvement donations from a public entity that does not receive any sale proceeds should receive partial credit towards the tie-breaker. (Kevin Knudtson, Elissa Dennis, Diana Downton, Lisa Motoyama, Zohreh Khodabandelu, and Shannon Dodge, Community Economics) Currently the tiebreaker boost incentivizes developers to negotiate for lower purchase prices, increasing credit efficiency. The proposed regulation change is counterproductive as it would eliminate tiebreaker credit for below market purchases. SCANPH acknowledges that the majority of land used for tax credit projects is donated; however, some public agencies have restrictions on how they can dispose of land and are not always permitted to donate land wholly. We therefore recommend TCAC continue to allow public agencies to do either a partial or full donation, but impose the new requirement on private deals only. (Valerie Acevedo, Southern California Association of Non Profit Housing) We understand TCAC's concern over possible abuse of this provision, but believe this proposal is overly broad. We suggest that credit for donations on partially discounted purchase prices from public agencies continue to be allowed. In addition, we suggest that the language be added to make it clear that on multi-parcel sites, a land donation of one parcel can continue to be counted even if another parcel is at market value. (Alice Talcott, MidPen Housing) Currently, the tiebreaker boost incentivizes developers to negotiate for lower purchase prices, increasing credit	

		efficiency. The proposed regulation change is counterproductive as it would eliminate tiebreaker credit for below market purchases. This is an essential tool, both for private transactions and public agency transactions. MHC's El Monte, Baldwin Rose project received partial tie breaker consideration for land partially donated by the Alameda Corridor East Authority—an Agency which could not fully donate the property. Similarly, allowing partial donations to private entities maintain some tax incentive for benevolently-minded owners to consider other forms of value (such as a partial tax write off) for their property. Removing this flexibility would reduce much, if not all, of the incentive for the affordable housing community to negotiate lower cash purchase prices. Given our focus on reducing costs, it is unclear why this would be of benefit. (Ed Holder, Mercy Housing) We disagree with the proposed restrictions for land and improvement donations. Some public agencies restrict the ways in which land may be donated. For this reason, we recommend TCAC impose a requirement that private donations be wholly donated, but not impose this requirement on public land. (Sharon Rapport, CSH) The HACSB recommends that TCAC continue to allow public agencies to do either a partial or full donation as public agencies are not always permitted to donate land wholly. Agencies should be encouraged, not penalized, for continuing to do what they can to support affordable housing development. (Veronica Zimmerman Garcia, Housing Authority of the City of San Buenaventura) This proposed regulation change is understandable since we understand the intent is to address malpractice amongst a few. Our concern is that it could inadvertently and unnecessarily penalize worthy projects. For various reasons, some public agencies donate some but not all of the land's value, expecting compensation for the remainder. Our recommendation would be to disallow any value in excess of the original sale price as reflected by the original purchase and sale agreement. (Smitha Seshadri, BRIDGE Housing)	

		We understand TCAC staff are concerned that some applicants have entered into purchase agreements with arms-length sellers for market-rate purchases and then obtain an appraisal showing a higher value in order to count the difference as tiebreaker credit. Suggesting that all transactions with below market purchase prices involve "manipulations" is unfair when there are legitimate appraisal values. The consequences of manipulating (i.e. negative points or worse) seem too great for any applicant to risk. The Housing Authority of the City of Santa Barbara has an established track record of using these transactions to develop successful projects and we'd encourage the TCAC staff to consider these exceptions before adopting a regulation that will make our future developments less competitive. On the Central Coast, and in the City of Santa Barbara in particular, property owners have become increasingly interested in putting their property to charitable use once they reach an age where it is a challenge to keep up with maintenance or lack the desire or resources to develop vacant parcels. Religious and public benefit organizations have also expressed a desire to offer land for affordable developments. These property owners are fortunate to own property in an exceptionally high-priced market but are often comfortable with a below market sale price in order to ensure the project is developed. The sale price may be supported by an appraisal or a below market price is negotiated and the transaction is finalized years before an application for LIHTCs is submitted. The Housing Authority purchases the property with the intent to sell to a limited partnership to develop the project but in this market the appraised value typically increases and the difference in price from the appraised value is donated to the project and improves the tiebreaker score instead of the Housing Authority as the seller making a profit. This also means less resources are required to provide much needed affordable housing. It seems unfair to eliminate this competitive advantage if charitable causes and market changes impact appraised values - especially in high-priced markets like the City of Santa Barbara. The proposal is counterproductive because it prevents well-intentioned individuals and	

		community groups from becoming stakeholders in the affordable housing development process. Acquiring property to develop projects is an expensive challenge and having community support is invaluable. Please also consider the following: • There may be instances that the below market sale component of the tiebreaker leads to getting credit when the seller believed the negotiated sale was at a market-rate price. However, even in those cases, that is not a good reason to get rid of the below market sale tiebreaker. The test should not be on whether the seller thinks he received a market rate price, but on whether an appraisal supports whether that is actually true or not. The opportunity to negotiate a lower sale price is an opportunity to minimize costs which serves the public interest by providing either for a lower credit request or increased improvements for the project. • If you share the TCAC staff concerns above, then you believe appraisals of “wholly” donated land are subject to manipulation as well and yet proposed changes continue to provide tiebreaker credit for “wholly” donated land from public agencies. It is unfair and inconsistent to arbitrarily trust some appraisals and not others. The existing regulation that allows TCAC to contract with an appraisal reviewer in the event a 15% reduction in value may change an award outcome seems like a sufficient safeguard, applicable to all appraisals. • The proposed regulations appear to be expanding the instances in which TCAC will allow paying an above market purchase price. In the past, Regulation 10327(c)(6) has stated that paying an above market price will only be allowed on 9% projects when “(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.” The explanation within the proposals suggest expanding that to include deferred	

		developer fee and other sources above and beyond those amounts already required to be deferred or contributed. Utilizing 9% credits to pay an amount above appraised value to a property seller is utilizing public funding to over-compensate a property seller when that funding is limited. Further, allowing above market purchases is inconsistent with the proposal to disallow tiebreaker credit for below market purchases. Using the rationale in the proposal, if a developer can obtain an inflated appraisal to obtain below market sale tiebreaker, then what does it say if a developer cannot obtain an appraisal high enough to support the purchase price being paid? The price is so high that the developer appraisal won't support the value. If this proposal is adopted in any form, eliminating the below market sale component of the tiebreaker for partial donations, we strongly recommend a delay in implementation for at least two funding rounds to give projects that are already underway an ability to compete for awards before the change becomes effective. This has generally been done in the past when there have been significant changes to the tiebreaker system. (Rob Fredericks, Housing Authority of the City of Santa Barbara)	
42	10325(c)(9)(A) – De minimus lease payments	Many jurisdictions have policies regarding the donation of land and leases for publicly-owned land that make these changes problematic. We recommend that TCAC do more research to better understand local land donation policies as well as ground lease structures to better understand standards throughout the state to create more nuanced policies for the intent of this change. TCAC should at least allow the portion of the donation from the public agency to be counted and recognize the difference between the appraised value and below market ground lease payment when considering leases. The stricter policies proposed make more sense as they relate to private party land donations and leases, but more flexibility is needed for publicly held land. (Stephen Russell and Laura Nunn, San Diego Housing Federation) Please add language that clarifies that payments in excess of $100 per year are admissible if they are made only from residual receipts. (Amie Fishman, Non-Profit Housing	As described in Item 41, staff is limiting the proposed whole donation rule to certain private party transactions and will continue to give tiebreaker credit for partial land donations or lease write downs by public entities. Staff is supportive of the comments to clarify the value of a lease that includes residual receipts payments. As a result, staff proposes an amendment to state that the value of land leased by a public entity shall be discounted by the sum of up-front lease pre-payments and all mandatory lease payments in excess of $100 per year over the term of the lease, exclusive of residual receipt payments. Staff is not supportive of excluding mandatory lease payments in excess of $100 per year from the discount or of delaying the implementation of this change as the statement reflects TCAC policy that has been in place

		Association of Northern California) With regard to donation credit for leased land, TCAC regulations must clarify that residual receipts ground lease payments should not count toward the $100 per year cap. Ground leases should be treated similarly to public or soft debt in this regard. *Recommendation*: Confirm that residual receipts ground lease payments do not invalidate donation credit. (Richard Mandel, California Housing Partnership Corporation; Rob Wiener, California Coalition for Rural Housing) We do not support the proposed requirement that ground lease payments may not exceed $100/year to receive tiebreaker credit. Many public agencies structure the ground leases with a residual receipts payment. This payment may exceed $100 a year, but is deferred and considered a 'soft loan.' Limiting the payment to $100/year will deter agencies from structuring this assistance to affordable housing developments. There may be other agencies that require some sort of hard payment that is well below-market, but still exceeds $100. We recommend that CTCAC research this issue with jurisdictions and developers to make sure that they are not eliminating positive opportunities to create more housing on publically owned land. (Susan Reynolds, Community Housing Works) We would like to request clarification that residual receipts ground lease payments are not included in the $100 per year cap. Because of the unpredictable nature of residual receipts, such payments in some years may exceed the cap but the intent of the significantly below market ground lease remains the same. Some jurisdictions have minimum ground lease payments, like San Francisco's annual $15,000 payment, that are higher than $100 but are minimal relative to the market value of the land and should be excluded from the cap as well. (Kevin Knudtson, Elissa Dennis, Diana Downton, Lisa Motoyama, Zohreh Khodabandelu, and Shannon Dodge, Community Economics) Some jurisdictions have codified minimum lease payments	for years.

		above $100. SCANPH requests that this change, if implemented, be modified to take into account these codified lease limits and delay implementation until 2020 in order to allow jurisdictions to adapt their policies. (Valerie Acevedo, Southern California Association of Non Profit Housing) Please add language that clarifies that payments in excess of $100 per year are admissible if they are made only from residual receipts. (Alice Talcott, MidPen Housing) Some jurisdictions have codified minimum lease payments above $100. We recommend delaying lease limitations until 2020, which would allow jurisdictions to adapt new regulations. (Sharon Rapport, CSH) Below the line lease payments are required by many public agencies where the lease amount per annum is less than $100, and should not be counted towards the cap. (Smitha Seshadri, BRIDGE Housing)	
43	10325(c)(9)(A) – Inclusionary land donations	We have concerns regarding the proposed changes for land donation credits as they relate to inclusionary housing ordinances simply as a matter of allowing the oversubscribed state tax credit program to be used to meet the inclusionary obligations of market rate developers. (Stephen Russell and Laura Nunn, San Diego Housing Federation)	The commenters raise an issue that goes far beyond the limited scope of the proposed change. They imply that inclusionary projects should not be eligible to receive a 9% tax credit award at all. The proposed change simply resolves an inconsistency in the current regulations regarding land donated pursuant to an inclusionary ordinance versus a development agreement and has a marginal impact on this larger issue. As a result, staff believes it is appropriate to resolve this inconsistency while postponing the debate on the larger issue for another day. No changes.
44	10325(c)(9)(A) – Seller carryback exclusion		No changes.
45	10325(c)(9)(A) – Default USDA contract rent and special needs clarification	I urge TCAC to utilize at least the 80 percent TCAC rent as the default USDA contract rent now that tax credits are available for incomes up to 80 percent of AMI. (Justin Hardt, ICD) We object to the change relating to the USDA default rent.	For projects with rental subsidies from any source other than USDA, TCAC already uses the committed contract rent amount. For such projects, there is no distinction between "anticipated" and "committed" contract rents, so the proposed change creates no disadvantage for projects with USDA subsidies.

		The proposal would allow all other forms of rent or operating subsidies to use the "anticipated contract rent income" to calculate the differential, but would require "committed contract rents" for USDA-assisted projects. Absent "committed" rents, the rent differential would be calculated assuming 60% AMI rents. This disparate treatment places USDA-assisted projects at a disadvantage to those receiving any other form of rent or operating subsidy, which benefit from a calculation based no "anticipated" rents. We can think of no policy justification for this disadvantageous treatment of USDA rental assistance. (Cheri Hoffman, Investment Corporation) PV supports the special needs clarification. It is a significant boost and is commensurate with the significant commitment of developing Special Needs projects where on-site supportive services are robust and a critical component driving Supportive Housing as a proven strategy that stabilizes lives and ends homelessness with a high rate success. (Amy Anderson, PATH Ventures) SCANPH believes this proposed change disincentivizes the integration of Special Needs units and eliminates any competitive advantage for non-special needs projects that include special needs units. If the State of California really wants to address the housing and homelessness crisis, TCAC should promote the inclusion of special needs units in all housing type projects not just "Special Needs projects", which comprises only a small set-aside and these Special Needs units should get the benefit of the 30% AMI base rent as the population in the units are the same. SCANPH, therefore, recommends TCAC incentivize all Special Needs units as a whole and consider allowing the actual AMI of "special needs" units to serve as the basis for calculating the rent differential. (Valerie Acevedo, Southern California Association of Non Profit Housing) This eliminates any competitive advantage for non-special needs projects that include special needs units. The State of California has a huge housing and homelessness crisis. TCAC should promote the inclusion of special needs units in	Nonetheless, staff concurs that the language for both USDA and non-USDA rental subsidies should use the same term. Staff proposes to amend the language to refer to "committed" contract rents in both cases. Under the current regulations, TCAC does not use the 30% AMI TCAC rent when calculating the tiebreaker benefit for rental subsidies on special needs units in a non-Special Needs project. For TCAC purposes, such units are not special needs units because the owners are under no obligation to TCAC to maintain such units for special needs households. For TCAC purposes, these are general affordable units. If TCAC were to use the 30% AMI TCAC rent for units in other housing types, it is not clear what standards those units would have to meet to be considered special needs. As a result, the proposed language change is not a change in policy, and staff continues to believe that providing the tiebreaker benefit only for special needs units in project's meeting TCAC's Special Needs housing type is appropriate. While some applicants would certainly benefit from using an 80% AMI TCAC rent as the default contract rent in USDA properties or from using 20% AMI TCAC rents for the tax credit rent in special needs units targeted to 20% AMI, staff is not persuaded that this benefits the program overall. With respect to rural areas where most USDA projects are located, it has been staff's experience that market rents are often close to 60% AMI and more often less than 80% AMI. Using 80% AMI as the default USDA contract rent would therefore give such projects an unfair advantage. With respect to the 20% AMI special needs units, TCAC now does not consider the specific targeting of each unit in the tiebreaker calculation. Instead, the regulations stipulate that the calculation shall use 30% AMI rents for special needs units and 40% AMI rents for all other units. Staff is not in favor of complicating this further by using different rent assumptions within the universe of special needs units.

		all projects, not just Special Needs projects which comprise only a small set-aside. To make a dent in the homelessness crisis facing the state, TCAC needs to promote the inclusion of special needs housing in all types of housing projects. (Alexander Pratt, AMCAL Multi-Housing, Inc.) We conditionally agree with this change. TCAC should consider allowing the actual AMI of "special needs" units to serve as the basis for calculating the rent differential pursuant to proposed regulation change #20 which establishes a new 20% AMI target. In addition, given our industry's accelerating move toward population-mixing, we believe TCAC should allow any special needs units in any housing type to benefit from the rent differential standards described above. (Brian D'Andrea, Century) The HACSB suggests that the USDA contract rent could be the higher of 80% AMI or the committed contract rent, to be more in line with other federal rental assistance programs such as the Section 8 payment standards/fair market rents, which are usually higher. (Veronica Zimmerman Garcia, Housing Authority of the City of San Buenaventura)	
46	10325(c)(9)(A) – Related party soft loans	We oppose this change as we believe "at risk" deals should be carved out from this exclusion. We understand what TCAC is managing for but believe the public benefit of preserving affordable housing justifies TCAC allowing tiebreaker benefit in conjunction with non-public entities providing soft loans or grants to a project. (Valerie Acevedo, Southern California Association of Non Profit Housing; Brian D'Andrea, Century)	The proposed change is a simple clarification that a private entity providing a loan to a project may not have received funds from the development team. To the extent that the commenter is suggesting that TCAC give tiebreaker credit to at-risk projects for debt or equity contributions from a private entity when the development team gives funds to that entity, staff strongly disagrees. This would seem to condone money laundering. To the extent that the commenters suggest that TCAC give tiebreaker credit to at-risk projects for seller carryback loans or other direct contributions from related parties, staff still disagrees. Seller carrybacks and deferred developer fees are not the same as cash contributions, and such a change would invite abuse and create an unlevel playing field. The proposed change continues to give tiebreaker credit for soft loans from private entities who are truly unrelated No changes.

47	10325(c)(9)(A) – Pass-through land donations	We suggest this be broadened to allow other entities to act as a pass thru or as an approved change of ownership, such as from a landowner to a family trust, as long as the change in ownership wasn't for increased cash value. (Alice Talcott, MidPen Housing)	A donor may wish to pass land through a non-profit entity to realize a tax deduction. Staff is not supportive of allowing other types of pass-through entities beyond non-profits as there is no apparent purpose for such an arrangement. As for changes of ownership, staff is open to further discussion with the commenter or others on whether such transfers that effectively maintain the chain of ownership are allowed under the current regulations. No changes.
48	10325(c)(9)(A) – Hybrid housing type	NPH supports and appreciates this proposed change. We recommend that this reasonable change also apply to special needs projects. (Amie Fishman, Non-Profit Housing Association of Northern California) CEI supports this change allowing a 9% project to receive the hybrid tiebreaker benefits if the Large Family multiple-bedroom unit requirement is met across the two components in the aggregate. We also suggest that this logic be applied in the case of the special needs housing type. We recommend allowing a hybrid project to meet the special needs housing type if the special needs housing type requirements are met across the two components in the aggregate. (Kevin Knudtson, Elissa Dennis, Diana Downton, Lisa Motoyama, Zohreh Khodabandelu, and Shannon Dodge, Community Economics) We support this proposal and suggest that the requirements for a Special Needs project be similarly allowed to be met in aggregate. (Alice Talcott, MidPen Housing)	Staff concurs with this recommendation and is supportive of expanding the allowance to all housing types. Staff therefore proposes an amendment to allow projects seeking they hybrid tiebreaker benefits to meet any housing type in the aggregate across the 4% and 9% components. Staff proposes a further amendment to clarify that when the 4% project is scored in the aggregate in the Lowest Income or Housing Type categories, the 9% project shall also be scored in the aggregate in the corresponding point category.
49	10325(c)(9)(B)	We strongly support this change and also want to acknowledge CTCAC staff for continuing to study possible unintended consequences of policy choices. It was frustrating to have to figure out what sources had to be added back and by how much. We welcome this simplification of the process and hope it does lead to lower credit requests. (Caleb Roope, Pacific West Communities) I agree the add-back isn't working, and so repealing is it is one solution. The other solution would be to remove the	No changes.

		comparison to voluntarily excluded basis. If all public funds were added back to the numerator of the second ratio, it would work swimmingly. But limiting the add-back to the voluntary excluded basis is where then we got people not wanting to voluntary exclude basis. But if repealing it is the current plan, I'm supportive of it. (William Leach, Kingdom Development) NPH fully supports this change and are grateful for staff taking into account our members' concerns. (Amie Fishman, Non-Profit Housing Association of Northern California) We support the elimination of the add-back. (Susan Reynolds, Community Housing Works) We are supportive of this proposal and believe it is an important tool to control costs and better leverage the credits. (Alice Talcott, MidPen Housing)	
50	10325(c)(9)(C)	We support the exclusion of the higher resource area tiebreaker bonus to inclusionary projects. We have always maintained that inclusionary projects are required to be built, and do not need to be advantaged in the highly competitive 9% application process. (Susan Reynolds, Community Housing Works) We oppose this change. An inclusionary requirement as a function of a development agreement may arise from vastly different circumstances than inclusionary units strictly built as the result of an inclusionary policy. First, development agreements are the product of negotiation and such "inclusionary units" may be voluntarily included by a market-rate developer as a way to increase the political feasibility for a given project, a practice that should be encouraged, not discouraged. (John Fowler, People's Self-Help Housing)	Staff continues to believe that all inclusionary units, whether required by ordinance or a development agreement, should be treated equally. Moreover, to the extent a master developer voluntarily agrees to include affordable units for whatever reason, it seems that the master developer should not use scarce 9% tax credits to fulfill this agreement. No changes.
51	10325(f)(9)(A)	We support the elimination of the size limit on 9% new construction and adaptive reuse projects. We agree that credit limitations are already an effective limitation, making this rule irrelevant. (John Fowler, People's Self-Help Housing)	No changes.

		We agree with this change as we believe applicants should not be dissuaded from planning larger projects, in particular given the per project credit maximum. (Valerie Acevedo, Southern California Association of Non Profit Housing; Brian D'Andrea, Century)	
52	10325(f)(11)(D)		No changes.
53	10325(f)(13)		No changes.
54	10325(g)(1)(E)	We notice that in clarifying the definition of common areas, the proposal took out "meeting rooms" from the list of common areas. We suggest it should be added back and also to change "office" to "offices," community room to "community rooms," service space to "service spaces" to account for the possibility of multiple such amenities in a project. Also, we note that lobbies often serve multiple functions (such as waiting areas, mail rooms, and meeting places) and should count as common areas. (Amie Fishman, Non-Profit Housing Association of Northern California) Meeting rooms are an important amenity that benefits residents and should not be removed from the calculation of minimum common area required, like hallways and lobbies. *Recommendation*: Retain the reference to meeting rooms in common area. (Richard Mandel, California Housing Partnership) We hope that TCAC will reconsider this change, disallowing lobbies and hallways as applicable for the common area size requirement. Lobbies and hallways do not take up a large amount of space, but may make it easier to meet the common area size requirement, especially for major rehabs seeking 9% financing that already struggle to meet this requirement. Often as our industry reflects upon ways to increase cost efficiency, it is our hope that we can prioritize costs that more directly benefit our residents. In our experience, residents have never complained about the lack of community space and in our belief, this requirement would add additional project costs with marginal benefits to residents, at best. Additionally, lobby space can be effective "community" space. For example, when we perform income certification we usually utilize this space at our properties. (John Fowler, People's Self-Help Housing)	Staff is unaware of how a "meeting room" differs from a "community room" or "service space." As a result, staff interprets the proposed regulation change to count a meeting room as common area. Staff further interprets the proposed change to accommodate more than one of each amenity even though the terms are used in the singular. Staff is not supportive of counting hallways or lobbies as common area generally. Neither is amenity space. An applicant is nonetheless welcome to seek a staff opinion as to whether any particular lobby that has greater functionality should be counted. With respect to rehabilitation projects, an applicant may already seek a waiver from the square footage requirements if the existing common area is below the threshold. No changes to this section. Whereas this change was intended only to refer to the square footage requirements for common area, staff proposes an amendment to Section 10327(c)(5)(B)(8) to clarify that, in order to receive a threshold basis limit increase for sustainable flooring in common areas, an owner must install sustainable flooring in all interior floor space other than units, including hallways and lobbies.

		We notice that in clarifying the definition of common areas, the proposal took out "meeting rooms" from the list of common areas. We suggest it should be added back and also to change "office" to "offices". Also, we note that lobbies often serve multiple functions and should count as common area. There is a very real use and benefit to residents of lobbies as mail rooms and lounge/waiting areas, particularly in urban infill projects to allow for seating for residents waiting for rideshare like Uber/Lyft. (Alice Talcott, MidPen Housing)	
55	10325(g)(2)(G)	Meeting rooms are an important amenity that benefits residents and should not be removed from the calculation of minimum common area required, like hallways and lobbies. *Recommendation*: Retain the reference to meeting rooms in common area. (Richard Mandel, California Housing Partnership)	Staff is unaware of how a "meeting room" differs from a "community room" or "service space." As a result, staff interprets the proposed regulation change to count a meeting room as common area. No changes to this section. Whereas this change was intended only to refer to the square footage requirements for common area, staff proposes an amendment to Section 10327(c)(5)(B)(8) to clarify that, in order to receive a threshold basis limit increase for sustainable flooring in common areas, an owner must install sustainable flooring in all interior floor space other than units, including hallways and lobbies.
56	10325(g)(3)	CEI supports this clarification. (Kevin Knudtson, Elissa Dennis, Diana Downton, Lisa Motoyama, Zohreh Khodabandelu, and Shannon Dodge, Community Economics)	No changes.
57	10325(g)(3)(H)		No changes.
58	10325(g)(3)(M)		No changes.
59	10325(g)(3)(N)	I work with a number of different affordable developers that do a lot of homeless, and not one of them has the same model. What I have found is that the Housing First model works well for some and doesn't work at all for others. SB 1380 commanded any state program that provides housing for the homeless to incorporate the core tenants of Housing First into the program. I believe that word "incorporate" has a lot more flexibility than the position TCAC's currently	Staff disagrees with the comments that SB 1380 is something other than a mandate to use Housing First principles in all projects with units dedicated to homeless persons. Moreover, the Homeless Coordinating and Financing Council which is tasked to implement the law endorsed TCAC's proposed regulation change. To the extent that the commenters oppose such a mandate, staff believes the commenters

		proposing, which is mandating Housing First. Instead of mandating every special-needs project to use Housing First, you could give them a priority for the first half of the nonprofit homeless apportionment, like our USDA funding gets 14% of the rural set-aside. I would have zero problem if the state was saying we want Housing First projects, which we all know are really important to reducing calls for services and General Fund expenditures on the homeless, getting some kind of priority inside of the nonprofit homeless apportionment, maybe until the first 25% of the money was gone. But to incorporate it into the regulations as a mandate for all special-needs projects for the homeless is too broad of a way to incorporate it. So I am not supportive of the way it's being proposed, and TCAC has until July of 2019 to coordinate with the Council and talk about ways to incorporate it. (William Leach, Kingdom Development) We're a homeless assistance program in Vista that assists homeless families. We object to the mandate on Housing First. It assumes that TCAC shall become an instrument to eliminate tax credit funding for homeless assistance programs that choose alternative approaches to address homeless. We gladly walk away from programs that require Housing First and Coordinated Entry. But the only ability for us to continue to create affordable housing for families and for kids is through tax credit allocations. So by essentially saying you have to knuckle under and comply with Housing First in order to be eligible for tax credit allocation funding for affordable housing is just another way that we're not going to be able to serve homeless families and kids. Housing First poorly serves homeless families and kids, particularly in California. So with this type of rule going into effect, there would practically be zero dollars for building affordable housing for what we would consider homeless families and kids that are not homeless enough, and we think that that's a real problem. We also feel that this proposal undermines the aspects of homeless assistance programs that lead to empowerment and wellness. The jury is essentially still out as to whether Housing First as an approach is really moving people out into market-based rents	need to take the issue up with the Legislature. No changes.

		and housing, but it certainly is doing a great job of keeping people contained in subsidized housing. We're also concerned that Housing First explicitly prohibits accountability. Our families, the families that we serve, most of them, about 70 to 80 percent have some kind of substance abuse background. They come to our program because they know that we will help them remain healthy and we'll expect accountability, so that they can not only protect themselves but protect their kids and end the cycle of homelessness and poverty. We don't think that mandating Housing First strategy for affordable housing programs that are getting tax credit financing really lends itself to helping these folks stay on their course of maintaining sobriety and helping their kids break, not only the traumatization of growing up in substance abuse, but also poverty and homelessness. We're not suggesting that everybody be mandated to use our model, but what we're saying is give us an opportunity and give us some flexibility so that we can live within the means by which we can continue to provide affordable housing. We think that this rule contributes to the one-size-fits-all approach, and it fails to recognize other effective approaches solving homelessness. Instead of requiring projects funded under the homeless assistance priorities within the nonprofit set-aside to follow the statutory mandated Housing First criteria, I think there are some opportunities to give points or to provide set asides. And I think that making it an overarching requirement is not the only way to incorporate it in the rulemaking for TCAC. (Paul Webster, Solutions for Change) We greatly appreciate TCAC changes to existing regulations to comply with Senate Bill 1380 (Mitchell). These changes will ensure projects funded are following evidence-based practices, and will allow some of the most vulnerable Californians to access tax credit properties. (Sharon Rapport, CSH)	
60	10325(g)(4)(B)		No changes.
61	10325(h)		Staff proposes minor edits to the proposed language.
62	10325(h)		No changes.
63	10325(h)	We recommend that for the practice of forward allocating credits, TCAC implement a criteria that wait list projects	Section 10325(f)(3) of the regulations already requires that 9% projects have enforceable financing

		have at least 50 percent of funds for the application project secured in order to be considered. (Stephen Russell and Laura Nunn, San Diego Housing Federation)	commitments for at least 50% of the project's permanent financing. This regulation applies to waiting list projects as well. Staff proposes an amendment to paragraph (1) to clarify that a) only a full return of credits from a project triggers this paragraph; and b) staff will apply the $1 rule that applies generally to set-asides and the 125% rule that generally applies to regions. In other words, waiting list projects in a set-aside with returned credits will be funded until the credits in the set-aside are exhausted, and waiting list projects in a region with returned credits will only be funded if credits remain available in the region and the project would not cause the region's aggregate award to exceed 125% of the region's original available credit for that round. Unlike in the general sort for each round, in the event that the next ranking regional project exceeds the 125% rule, TCAC will not skip to a project requesting lesser credit. Remaining projects in a region after the 125% rule is applied may still be funded off the waiting list pursuant to paragraph (2) or (3).
64	10325(h)		As opposed to merely allow greater flexibility for waiting list awardees to substitute other funds for the loss of state credits when they are no longer available, staff proposes an amendment to delete the provisions of the waiting list relating to state credits in their entirety. Under the normal sort, TCAC awards state credits to projects even after the year's allocation is exhausted. Only waiting list projects are denied state credits if the year's allocation is exhausted, and the requirement that they substitute other sources in ten days is extremely problematic. The revised proposal would allow staff to make reservations off the waiting list based solely on the availability of federal credits. If a selected project is eligible for state credits, staff could still make the award of federal and state credits, thereby overallocating the state credits. This is a much more manageable process and treats waiting list projects the same as projects from the sort. While this revised proposal may exacerbate the overallocation of state

			credits, staff has proposed other measures to address that holistically.
65	10325(h)		No changes.
66	10326(g)(9)		No changes.
67	10327(c)(6)		No changes.
68	10327(c)(6)		No changes.
69	10327(c)(7)	CHPC supports the proposed replacement reserve provision in this section. (Richard Mandel, California Housing Partnership) PV supports the clarification that deposits are required to be made as long as the regulatory agreement is in place, but opposes the specification of uses to "capital improvements or repairs." This description is 1) too narrow and 2) cumbersome as there is already stringent oversight by other public lenders and investors on the eligible uses of reserves. TCAC ought not need to insert itself into this already regulated process. PV is also concerned that these changes may negatively impact year 15 limited partner exit and resyndication transactions. PV suggests that these changes be delayed, so there is sufficient time for the development community to understand the intention and ensure that there aren't any unintended negative consequences. (Amy Anderson, PATH Ventures) SCANPH recognizes this is a positive change for the sponsor and investor partnership of a project, but conditionally opposes this change as it limits the sponsor's decision-making authority for a project's spending reserves. SCANPH recommends TCAC confer with the development community to include additional language that could mitigate risk and allow for the possibility of accumulated reserves being used for redevelopment/resyndication of the asset (along with capital improvements or repairs). Including additional language will ensure the permitted reserve expenses accurately reflect a project's expenditure needs and give a partnership the right to spend as they need. (Valerie Acevedo, Southern California Association of Non Profit Housing) We conditionally oppose this change. We think additional	Staff continues to believe that limiting the use of replacement reserves to capital improvements or repairs is appropriate. These are the purposes for which the reserve was established. The regulations have long stated that reserves must remain with the project, and the use of reserves to facilitate investor exits and resyndications transactions, particularly paying out reserves to owners, are exactly the uses which concern staff. Staff does not believe that lenders and investors have adequately enforced the TCAC regulations. Whereas the regulation requires reserves to "remain with the project to be used for the benefit of the property and/or its residents," staff sees no conflict with using reserves as a source for the resyndication of the property. The replacement reserves are presumably less than the rehabilitation needs (otherwise a resyndication would not be necessary). These reserves can be applied to the repair and capital improvement needs of the property. To the extent other reserves are no longer needed for their original purpose, using these reserves as a permanent funding source would clearly benefit the property and its residents. Staff concurs with the recommendation to add "deposit" to the first sentence of (A) and proposes an amendment accordingly.

		language should be added to allow for the possibility of accumulated reserves being used for redevelopment/ resyndication of the asset along with capital improvements or repairs. (Brian D'Andrea, Century) We suggest the first sentence should be clarified as follows: the "minimum replacement reserve *deposit* shall be….". (Alice Talcott, MidPen Housing)	
70	10327(c)(7)	CHPC strongly recommends that TCAC also take this opportunity to make a minor modification to the operating reserve language. TCAC prescribes a limited list of properties that may be eligible for operating reserves in excess of industry norms, e.g., homeless assistance, Special Needs, HOPE VI and project-based Section 8. We suggest that TCAC add to this list projects that otherwise serve a significant proportion of very and/or extremely low-income households and are, as a result, not able to achieve adequate long-term cash flow without use of a larger capitalized operating reserve. This underwriting need is not just limited to homeless or special needs projects. *Recommendation*: Broaden the list of projects that are allowed to increase capitalized operating reserves to include non-homeless or special needs properties that otherwise include deep rent targeting at a level that does not allow for adequate long-term cash flow without use of capitalized operating reserve withdrawals. (Richard Mandel, California Housing Partnership) In what will become paragraph (B) in this section, we recommend that CTCAC take the opportunity to clean up the term "in excess of industry norms" as it is ambiguous, debatable and undefined. Instead of this term, it would be better to have language that was clear that set the upper limit of operating reserves, such as "in excess of one year of estimated operating expenses and debt service under stabilized occupancy." This would allow applicants to comply with other reasonable lender or investor requirements while limiting excessive operating reserves when projects are oversourced. For the typical, non-special needs projects, providing a range of allowable reserves from 3 months to 1 year would virtually cover all situations	Staff is sympathetic to the suggestion to further define and/or expand the exceptions to reserves in excess of industry norms. However, staff is not prepared to do so in this round of regulation changes given the myriad factors which go into sizing reserves appropriately. Whereas staff has not invoked this rule in recent memory, there is no urgency to define or expand the exceptions. Staff will consider this issue in a future regulation change cycle but continues to believe that simply moving it to a more appropriate location is advisable in the meantime. No changes.

		without requiring CTCAC to make a judgement call as to what is "reasonable". (Caleb Roope, Pacific West Communities) NPH has concerns with the proposal as written. The language allowing operating reserves "in excess of industry norms" to be considered "reasonable costs" for certain types of projects is vague and subjective. Reasonable operating reserve sizing is influenced by not just the project type, but also the sponsor and the market area. We also note that "industry norms" already require larger reserves for the types of projects called out here, so it is confusing to specifically exempt them from a requirement to meet industry norms. We suggest if you want to ensure operating reserves remain reasonable, you provide a more objective standard for consideration, or not include this language. We also strongly recommend that TCAC take this opportunity to make a minor modification to the operating reserve language. TCAC prescribes a limited list of properties that may be eligible for operating reserves in excess of industry norms, e.g., homeless assistance, Special Needs, HOPE VI and project-based Section 8. We suggest that TCAC add to this list projects that otherwise serve a significant proportion of very and/or extremely low-income households and are, as a result, not able to achieve adequate long-term cash flow without use of a larger capitalized operating reserve as this underwriting need is not just limited to homeless or special needs projects. (Amie Fishman, Non-Profit Housing Association of Northern California) The language allowing operating reserves "in excess of industry norms" to be considered "reasonable costs" for certain types of projects is vague and subjective. Reasonable operating reserve sizing is influenced by not just the project type, but also the sponsor and the market area. We also note that "industry norms" already require larger reserves for the types of projects called out here, so it is confusing to specifically exempt them from a requirement to meet industry norms. We suggest if you want to ensure operating reserves remain reasonable, you provide a more objective standard for consideration, or not include this language.	

		(Alice Talcott, MidPen Housing)	
71	10327(c)(9)	CSH agrees with the clarifications to this section. (Sharon Rapport, CSH)	No changes.
72	10327(g)(3)	SRHT supports this regulation change but requests that the Executive Director be additionally allowed to make exceptions for "all other units" by adding "unless waived by the Executive Director" to the end of the sentence. (Dana Trujillo, Skid Row Housing Trust) PV supports this change as it allows developers the flexibility to underwrite based on their experience and risk tolerance. (Amy Anderson, PATH Ventures) SCANPH agrees with this proposed change as we believe allowing for a 5% vacancy on special needs units subsidized with a project-based source of rental subsidy is generally consistent with how investors/lenders underwrite transactions. (Valerie Acevedo, Southern California Association of Non Profit Housing; Brian D'Andrea, Century)	Staff is not supportive of granting waivers to the 5% vacancy rate for "all other" units (i.e., non-special needs, non-SRO units). This is an industry standard and appropriately balances historically low vacancy rates in affordable housing with a conservative approach to underwriting. Moreover, staff supports greater rather than lesser consistency in vacancy rates. No changes.
73	10327(g)(6)		No changes.
74	10327(g)(7)	The proposed changes restricting uses for commercial cash flow will be difficult to implement and monitor, creating additional burdens for reporting from developers and review by TCAC staff. Since commercial space is a requirement of local zoning in many cases, we recommend a cap of 10,000 square feet of commercial space under which a project would be exempt from this requirement. Further, conventional lenders do not typically underwrite commercial income in affordable housing projects (excluding such income from the calculation of income available for debt service) because commercial income is often insignificant or unreliable. If a lender is unwilling or unable to underwrite the commercial income, TCAC should not require that the commercial income be included in residential cash flow. In addition, to attract viable commercial tenants, developers must often provide substantial tenant improvement allowances (by borrowing against the commercial net income) or providing rent increases. TCAC should delay the proposed regulation change and convene a working group to	Because the proposed change applies excess commercial net income only to the 8%/25% residential cash flow limits and not to the residential minimum 1.15 debt coverage ratio requirement, staff does not agree that the change is in conflict with the prohibition on commercial income supporting the residential portion. With a 1.15 DCR, the residential portion stands on its own. Because the proposed change does not stipulate commercial vacancy rates or expense amounts, nor is there a conflict with industry standards for underwriting commercial income and debt. Moreover, the proposed change relates only to projects with significant commercial net income after normal underwriting standards are applied. Staff remains concerned about projects using tax credit equity or residential debt to fund the construction of commercial space and then distributing significant commercial net income that could have been used to pay for the commercial space. This wastes precious housing

		further explore proposed changes as they relate to the tax credit program and also identify ways to incentivize filling commercial spaces in tax credit financed properties. (Stephen Russell and Laura Nunn, San Diego Housing Federation) We oppose counting commercial net income that exceed cash flow limits toward residential cash flow limits for the placed in service package. This reduces the incentive to build and lease commercial space. In most cases, building commercial space is a zoning requirement and not used to underwrite the project as lenders find it risky to underwrite the commercial portion. Perhaps there should be a square footage requirement (such as 10,000 SF +) by which we would be required to underwrite commercial space. (Michelle Muniz, Affirmed Housing) The Supportive Housing Alliance opposes this change. By requiring that commercial cash flow be included when calculating whether a project meets the residential cash flow limits, this regulation change is in conflict with TCAC's established regulations that disallow the commercial portion of a project to support the residential portion. Additionally, utilizing the same cash flow restrictions for commercial as TCAC has established for residential places TCAC regulations in conflict with the requirements of other agencies and the lending and investment community, wherein commercial income must be underwritten at a 50% vacancy rate. TCAC should not establish a maximum on the amount of commercial income that can be kept separate from residential. The commercial market's volatility is such that commercial costs and income should remain separate from residential cash flow. Any commercial income generated should remain segregated so that it can be used for commercial operating costs, which are distinct from residential costs. (Dora Gallo, A Community of Friends; Amy Anderson, PATH Ventures; Anita Nelson, SRO Housing; Lisa Watson, Downtown Women's Center; Becky Dennison, Venice Community Housing Works; Channa Grace, W.O.R.K.S.; Cristian Ahumada, Clifford Beers Housing; Nancy Lewis, Nancy Lewis Associates, Inc.; Neil	resources in addition to allowing excessive cash flow. Nonetheless, staff accepts the difficulties in regulating commercial income and proposes an amendment to delete the provisions relating to counting net commercial income in excess of 8%/25% towards the residential cash flow limits. Staff proposes to maintain but slightly alter the requirement that projects with commercial space provide with the placed in service application a written communication from the hard lender specifying the portion of the loan that is underwritten with commercial income and, if greater than zero, the corresponding commercial debt service amount. This will enable TCAC to enforce the existing prohibition on residential income supporting negative cash flow on the commercial space. While the commercial portion of a loan will often be zero, it is unknown to TCAC without such a communication. Therefore, TCAC needs to obtain it in all cases in which the project includes commercial space. Staff does not believe that a simple communication from the lender in letter or email form is a burden on the 8609 process.

		McGuffin, Little Tokyo Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) NPH strongly opposes this proposed change. This issue is far too complicated to adequately address so quickly. As TCAC acknowledges in its own reasoning, there are significant variations with the way that commercial cash flow works with different projects making it highly unlikely that a one-size-fits all solution can be found within such a short timeframe. Given the complexity of this issue, NPH recommends that TCAC convene a working group to explore this question over the coming year and to come up with a revised set of recommendations for the next set of TCAC regulations. (Amie Fishman, Non-Profit Housing Association of Northern California) This is a one-size-fits-all attempt to incorporate commercial income into residential cash flow which is not fully developed and far too premature to include in regulations at this time. Commercial income comes in myriad and often complex forms, and underwriting is fraught with an extensive range of project-specific issues. Typical conventional lending underwriting practices exclude income from commercial spaces in affordable housing developments from the calculation of income available for debt service. The income is often unreliable and/or insignificant. Affordable housing developers often include commercial space as a requirement of local zoning laws, and/or to support service-providers, not to generate meaningful commercial income. Moreover, in today's era of declining brick-and-mortar retail sales, developers must often provide substantial tenant improvement allowances (for which they must borrow against commercial NOI) or sizable rent decreases, effectively eliminating any commercial income upside. Entering into lease agreements with tenants and determining the rental structure often happens during the construction phase, adding further hurdles to underwriting debt based on commercial income. Occasionally, sponsors do secure commercial tenants and structure their commercial financing in advance of TCAC application. In these instances, sponsors should be allowed,	

		though not required, to incorporate commercial income into debt underwriting. Further, what underwriting requirements would be applied? For example, what vacancy rate would be used? And if the lender is not allowing the income to be used for underwriting of the permanent loan, but TCAC is including that income toward the maximum cash flow test, then of course the maximum cash flow will exceed the maximum cash flow test. The lender would not allow the developer to reduce its residential income (by either increasing its operating expenses or increasing debt service) if they are not counting the commercial income as income. The lender still requires their standard DCR excluding the commercial income. Further, what happens at placed in service when the commercial space is not leased up? Would TCAC still include the prospective income in this test even though the developer would not know how long it would take to lease up that space and even if the prospective income amount is accurate. How could TCAC count income that has not been received or that cannot be leveraged? As the above issues and examples clearly illustrate, the TCAC commercial income provision is premature and requires considerably more stakeholder input and development. We strongly urge TCAC to postpone this proposed revision and instead convene a working group to study the issue and propose modifications for a future regulatory revision. *Recommendation*: Remove the proposed commercial income language. Convene a working group to study the issue and develop recommendations for future regulatory revisions. (Richard Mandel, California Housing Partnership; Rob Wiener, California Coalition for Rural Housing) PV understands TCAC's concern that developers that include commercial uses may not be sufficiently leveraging commercial income, but this change appears to be in conflict with Section 10327(g)(7) that requires the bifurcation of residential and commercial income. This existing policy is in alignment with the federal requirement that the low income housing tax credits cannot support the development of the commercial spaces. PV also recognizes that the risks and benefits of developing commercial spaces are varied and is	

		not confident that the proposed change adequately addresses those challenges. PV recommends further conversations take place to avoid unintended consequences. (Amy Anderson, PATH Ventures) We do not support the proposed requirement regarding commercial net income. We believe that this requirement will be very difficult to monitor, and is very cumbersome because it hits at PIS and in operations. Because of zoning requirements, many projects need to build a relatively small amount of commercial (i.e. ground floor retail), that is usually not very viable, and indeed remains vacant. Such projects of 10,000 sf or less of retail should be excluded from the requirement to provide the additional Place in Service documentation, which would be onerous and out of scale with the viability of the retail. (Susan Reynolds, Community Housing Works) While we support the concept of preventing financial windfalls to projects with marketable commercial space and using any potential windfall to reduce the residential development cost, we find the new language added to this section to be too broad. We request that the requirement for a lender letter at placed in service only apply to projects that have permanent debt underwritten with commercial income or that are projecting commercial income to exceed the higher of eight percent (8%) of gross commercial income or twenty-five percent (25%) for the first three years. Few projects with will meet this threshold. We are concerned that this added requirement for all projects with commercial space will create additional delays to the already long process of receiving the 8609 form. Asking project sponsors to procure letters stating that their lenders are not underwriting commercial income seems like a time consuming pursuit to no purpose. (Kevin Knudtson, Elissa Dennis, Diana Downton, Lisa Motoyama, Zohreh Khodabandelu, and Shannon Dodge, Community Economics) This change is in direct conflict with established TCAC regulations that disallow the commercial portion of a project	

		from supporting the residential portion of a project. Additionally, utilizing the same cashflow restrictions for commercial as TCAC has been established for residential (8% of gross income or 25% of annual must pay debt service) disregards industry standards adopted by other state agencies that require commercial income to be underwritten at 50% vacancy. At placed-in-service, it is highly likely that commercial income may automatically exceed TCAC's cashflow restrictions. While we appreciate TCAC's mission to make more deals with commercial portions feasible, SCANPH believes the proposed change does not ensure that feasibility and that this issue should be investigated further prior to codifying it in the regulations. (Valerie Acevedo, Southern California Association of Non Profit Housing) We oppose this change. This proposed change conflicts with existing TCAC regulations that prohibit cross-subsidy between commercial and residential uses. We believe additional dialogue on this matter is warranted given the myriad interests and issues around commercial space within tax credit developments. (Brian D'Andrea, Century) We strongly oppose this proposal. We believe this proposal is not workable and puts developers in an impossible situation - caught between different underwriting requirements of the perm lender, investor, soft lenders and TCAC. Presumably, your concern is that projects are being over-subsidized with tax credits if commercial income is not being used to support debt. The reality is that commercial income is often simply not underwritable for many reasons, including perm lender requirements, or due to very conservative vacancy assumptions guidelines by investors or soft lenders such as HCD. As a result, it is not surprising when projects end up with more commercial income than was underwritten. The TCAC cash flow limits are an underwriting requirement, based on prescribed underwriting assumptions such as required escalation and vacancy rates- they are not and cannot be used as an actual cash flow limit. If TCAC is concerned that developers are being unduly enriched by commercial income, we suggest that a working group be formed to address the issue. We would suggest	

		that HCD be included in that, as this has been an issue of concern and contention in HCD underwriting. With the current infusion of new HCD funding, it is important that TCAC and HCD guidelines on this are consistent. (Alice Talcott, MidPen Housing) Banks typically will not include commercial income together with residential income when underwriting a loan primarily because the income is often unreliable and/or insignificant. Furthermore, different underwriting assumptions apply to commercial income compared to residential income. For example, most banks require a 50% vacancy rate when underwriting commercial income. Therefore, to bundle these two income sources together and apply a limit requirement is impractical. There is also a timing issue. Entering into lease agreements with tenants and determining the rental structure often happens towards the end of the construction phase once there is a tangible commercial space that can be marketed. This will be a year or longer after construction closing, and different economic conditions might apply. The implication is that the final commercial lease rate that is negotiated close to placed in service is beyond the developer's control at construction closing. To impose a limit that is enforced a year or longer after the permanent lender underwrites the permanent loan seems onerous. It also raises the question of what happens at placed in service if the commercial space is not leased-up? How would this "future" income that has not been received or that cannot be leveraged be treated by TCAC? (Smitha Seshadri, BRIDGE Housing)	
75	10328(c)		No changes.
76	10330(b)(1)		No changes.
77	10335(a)	We appreciate anything that CTCAC does to reduce the time and cost burden associated with the program, and we support the elimination of this documentation requirement. Thank you for your efforts to reduce unnecessary processes and costs. (Caleb Roope, Pacific West Communities) We support this change and thank TCAC for reducing the real cost and time cost of LRA review of noncompetitive applications. (John Fowler, People's Self-Help Housing)	No changes.

78	10335(a)	We opposed this change due to increased scattered site application costs. This reduces the staffing cost efficiency usually gained from a scattered site application. (John Fowler, People's Self-Help Housing)	While staff is mindful of increasing any application costs, this is an incidence in which TCAC is simply passing on additional costs it incurs with scattered site applications in multiple jurisdictions. Staff does not feel that it is appropriate for TCAC to subsidize such applications. Staff further notes that the savings to an applicant from a scattered site application far outweigh the additional LRA fees in the few cases in which multiple jurisdictions are involved. No changes.
79	10337(b)(4)	In general, we feel that TCAC should not attempt to administer/monitor/enforce legal housing requirements. All property owners within the state must comply federal, state, and local laws. The TCAC regulations do not need to, and should not include such requirements. Furthermore, due to the fact that some existing projects may include financing requirements associated with requiring tenants to participate in services (e.g., project-based Section 8 in the City of Anaheim, MHSA, etc.), if TCAC feels the need to impose this new regulation, it should be applied prospectively only and limited to projects with units designated for homeless households. (Bill Witte and Frank Cardone, Related California) This proposed change is in direct conflict with the HUD-VASH program which has explicit participation in services to maintain eligibility. (Tung Tran, Jamboree Housing) We strongly support this proposed amendment to the regulations as it codifies a principle on which TCAC has long agreed with housing and disability rights advocates, namely, that housing program participants cannot be required to participate in services to maintain their tenancy. This proposal would bring the TCAC regulations into compliance with the Mental Health Services Act. (Kara Brodfuehrer, National Housing Law Project; Natasha Reyes and Dara Schur, Disability Rights California) We greatly appreciate TCAC changes to existing regulations to comply with Senate Bill 1380 (Mitchell). These changes	Staff concurs with the concern that VASH requires participation in tenant services. While staff is unaware of other federal or state programs that require likewise, some may exist. Staff therefore proposes an amendment to exempt units funded with federal sources that require tenant participation in services. Whereas no other state or federal entity enforces the SB 1380 provisions against mandatory tenant services, staff continues to believe that is appropriate to include in regulations governing tax credit projects.

		will ensure projects funded are following evidence-based practices, and will allow some of the most vulnerable Californians to access tax credit properties. We recommend clarifying that the core component of Housing First that disallows housing providers to condition housing on participation in services applies to the extent it is consistent with federal requirements. In general, federal programs impose Housing First requirements on projects receiving funding to address homelessness. However, the HUD-VA Supportive Housing Program (HUD-VASH) does require voucher recipients to participate in services. We recommend TCAC add a simple sentence ceding to federal programmatic requirements, using the language included in SB 1380: "This requirement applies to all homeless assistance projects, with the exception of federally funded programs with requirements inconsistent with these core components of Housing First (Welfare & Institutions Code § 8255(e))." (Sharon Rapport, CSH) A standard condition of HAP contracts on developments where more than 25% of the units are covered by rental subsidy is that the "qualifying family" have at least one family member "receiving at least one qualifying service." The HACSB suggests that language can be modified to acknowledge that services are voluntary or that services will be offered to at least one family member; alternatively, the HACSB recommends that the proposed changes codify the prohibition as it relates to Senate Bill 1380 of 2016 for homeless units, rather than apply the prohibition generally to new and existing projects. (Veronica Zimmerman Garcia, Housing Authority of the City of San Buenaventura)	
80	10337(b)(5)	It is strongly recommended that TCAC not attempt to modify its regulations with matters which are covered by state/federal law. This could put TCAC into an awkward enforcement role with little/no police power. Rather, TCAC should rely on HUD's guidance and Fair Housing Laws, by which all property owners must abide. TCAC should not attempt to become part of the enforcement administration for such guidance, which could become administratively burdensome and potentially lead to legal liability. TCAC simply doesn't have the staff resources to effectively	Given the request for further guidance from both supporters and opponents of this change, the fact that the issue of discriminatory tenant screening practices falls within the purview of federal and state fair housing agencies, and the fact that TCAC does not have the expertise or capacity to enforce any such regulation, staff withdraws this proposed change.

		manage/monitor the types of tenant allegations/complaints which could arise as a result of such regulations. (Bill Witte and Frank Cardone, Related California) Codifying the 2016 HUD fair housing guidance on criminal records (herein "HUD guidance") is a critical first step to expand access to LIHTC properties to people with a criminal record and reunify families. The regulations are especially important because LIHTC properties across the state have historically adopted harmful and discriminatory tenant screening practices. Owners have been granted significant discretion to screen out applicants they deem undesirable, with little to no oversight. This results in family break-ups and exacerbates homelessness and recidivism. It is also discriminatory. We applaud CTCAC for including a prohibition on overbroad tenant screening practices and for reiterating in its regulations basic fair housing requirements. However, the state can do better to enforce the fair housing rights of its citizens by further expanding housing opportunities for formerly incarcerated men and women and putting an end to unlawful discrimination. We offer the following suggestions to expand the regulation's impact on low-income Californians: • We suggest that TCAC expand the list of prohibited information that owners can consider and include arrests that have not resulted in a conviction; any referral to or participation in a pre-trial or post-trial diversion program or a deferred entry of judgment; infractions, or any criminal conviction that has been sealed, dismissed, vacated, expunged, voided, invalidated, pardoned, or otherwise rendered inoperative by judicial action or by statute; or for which a certificate of rehabilitation has been granted; and any adjudication in the juvenile justice system, or information regarding a matter considered in or processed through the juvenile justice system. • In addition to considering the nature, severity, and recency of a conviction, TCAC should require owners to consider the individualized circumstances of each applicant, weighing a broad range of factors to determine whether criminal history is *directly related* to the tenancy. TCAC regulations should mirror the state fair	

		housing regulations in this regard. • TCAC should require owners to provide notice of the non-discrimination requirements to all applicants and current LIHTC tenants. Effective notice will be posted on site as well as listed on the owner's website and included in any outreach materials. Tenants should be informed by management of the non-discrimination policy upon initial application, at each recertification, and when a family requests to add a household member. • TCAC should require owners to have a written tenant screening policy. The screening policy should be provided to all applicants but particularly those who are denied admission based on criminal history. Providing a copy of the admission and screening policy is often the only means that applicants and tenants have to enforce their fair housing rights. • TCAC should require LIHTC owners to submit a copy of their tenant screening policy to CTCAC annually. The committee should review each screening policy to make sure it is compliance with its regulations and state and federal fair housing laws. • TCAC should also be clear in its regulations that where a local law provides additional protections for people with a criminal record, the state regulations will not preempt local law. • TCAC should define in its regulations terms such as "conviction" and "arrest." • TCAC should consider innovations around incentivizing development of affordable housing for formerly incarcerated individuals and their families. Other states have created set-asides, for example, for returning citizens. (Kara Brodfuehrer, Renee Williams, Deborah Thrope, National Housing Law Project; Marie Claire Tran-Leung, Sargent Shriver National Center on Poverty Law; Ugochi Anaebere-Nicholson, Public Law Center; Caroline Peattie, Fair Housing Advocates of Northern California; Meghan Maury, National LGBTQ Task Force; Leah Simon-Weisberg, Centro Legal de la Raza; Natasha Reyes, Disability Rights California; Taylor Campion, Family	

		Violence Appellate Project; Navneet Grewal, Western Center on Law and Poverty; Sarah Ropelato, Legal Services of Northern California; Lewis, Nancy Lewis Associates, Inc.; Neil McGuffin, Little Tokyo Service Center; Tod Lipka, Step Up on Second; Stephanie Klasky-Gamer, LA Family Housing) NPH is generally concerned about codifying in regulations what other agencies decided to only include as guidance. While our membership fully agrees with enforcing California housing law, it is unclear whether certain changes such as in Section 10337(b)(4) and (5) that codifies HUD's guidance on application of the Fair Housing Act to the use of criminal records are serving the purpose of enforcing California housing law or enshrining in code what other agencies decided to leave as general guidance. Our concern is not with the appropriateness of the policy, but that it is unclear and subjective, leaving owners vulnerable to multiple interpretations. We think this is a policy better implemented through the current channels than by TCAC and that TCAC should make clear, when enforcing this and other guidance, whether or not it is doing so to comply with State housing law or promoting a best practice. (Amie Fishman, Non-Profit Housing Association of Northern California) We have found that following the HUD guidelines in regards to criminal arrests and convictions to be a complex process which has raised many questions and few answers from HUD. We are concerned about TCAC incorporating these HUD guidelines, which are not yet fully understood by the industry, into the TCAC policies. Our concern is not with the appropriateness of the policy, but that it is unclear and subjective, leaving owners vulnerable to multiple interpretations. We think this is a policy better implemented through the current channels than by TCAC. If TCAC does adopt this provision, we request that it be accompanied by clear guidance on its implementation. (Alice Talcott, MidPen Housing) We appreciate adoption of HUD guidance around criminal	

		record bans for property managers. (Sharon Rapport, CSH)	
81	10237(c)(5)(B)(8)		Whereas the changes in the definition of common area in Section 10325(g)(1)(E) and (g)(2)(G) were intended only to refer to the square footage requirements for common area, staff proposes an amendment to this section to clarify that, in order to receive a threshold basis limit increase for sustainable flooring in common areas, an owner must install sustainable flooring in all interior floor space other than units, including hallways and lobbies. This is consistent with the current regulations.
82	10327(c)(2)(C)		Staff proposes an emergency regulation change to allow 4% plus state credit projects with a 2016 or later reservation date to increase the developer fee in cost and in basis at placed in service in the event of a modification in basis, provided that an increase in the developer fee in cost shall only be allowed if the sum total of all permanent funding sources from related parties included in the initial application is maintained at placed in service and the entire increase is additionally deferred or contributed as equity to the project. This allowance is currently available to non-competitive 4% projects. Staff believes it is appropriate to expand it to 4% plus state credit projects because the higher developer fee generates more credits and equity to help cover the project's cost increases and the requirement to keep all related party sources and additional equity in the project ensures that the cash-out developer fee is not increased.
83	10327(f)		Staff proposes an emergency regulation change to allow projects with a committed capitalized operating subsidy reserve (COSR) from HCD, CalHFA, or another public entity approved by the Executive Director to add withdrawals from this reserve to gross income for purposes of determining "cash flow after debt service." Currently, only Special Needs and Homeless Assistance projects may use excess operating reserves to show feasibility. In a recent appeal, TCAC opined that the capitalized operating subsidy reserves offered by HCD and CalHFA under various programs are more akin to an operating subsidy than a reserve and that

			withdrawals from such accounts may therefore be included in cash flow. Staff believes it is advisable to codify this decision in the regulations. Staff is not supportive of applicant-funded COSRs being used for this purpose and therefore limited the authority to projects with committed COSRs from HCD, CalHFA, and upon approval of the Executive Director, from another public source which may offer COSRs in the future.