May 23, 2022

The Honorable Fiona Ma
CA State Treasurer
915 Capitol Mall Ste 110
Sacramento, CA 95814

Dear Treasurer Ma:

On behalf of Governor Newsom's Administration, we sincerely appreciate your partnership and commitment to ensuring the state housing finance system aligns with California's housing priorities. The ongoing collaboration between the Administration, the Controller and your office has been instrumental in cohesively advancing our state's affordable housing production goals. This memo provides the Administration's select priority recommendations to strengthen the 2022 CDLAC regulations and accelerate efforts to build more housing. The recommendations reflect the work on CDLAC regulations during the 2021 calendar year and the discussion held at the CDLAC April 27th meeting.

As background, November and December of 2021, I shared the Administration's housing priorities and recommendations for regulation changes to further the progress we have made in expanding affordable housing production. To help implement these policy changes, the Department of Housing and Community Development (HCD) provided redline edits to CDLAC staff on February 28, 2022. In formulating our recommendations, we considered HCD's redline edits, and comments offered by Gayle Miller (Department of Finance) on behalf of the Governor and HCD Director Gustavo Velazquez, which were not included in the draft regulations presented by CDLAC staff at the April 27th Committee meeting.

The Administration respectfully requests that these recommendations be incorporated into the proposed regulation changes to provide regulatory clarity, improve housing outcomes, and strengthen coordination of the state housing finance system.

Recommendations:

1. Affirmatively Furthering Fair Housing (AFFH): Promoting equity, and equitable access to opportunity, is among the Administration's top priorities. Below, I reiterate our recommendations to streamline this category for simplicity, transparency, and consistency with AFFH goals.

    - Minimum Site Amenities Requirement: High/Highest resource area projects should be required to earn a minimum threshold of site amenity points. Site amenity points measure quality-of-life necessities and conveniences for residents that are not captured by the Opportunity Indicators. Some of these necessities are particularly important for individuals without cars, who are likely to be housed in permanent supportive housing. However, in order to not excessively limit the number of viable high and highest resource area sites, we recommend a lower threshold of 7 site amenity points, excluding point options for being located in these areas.

    - Minimum Public Funds Requirement (simplification): The 9-point AFFH category should be simplified to apply to any project with public funds of at least $1 million committed on or before 6/30/22. There are currently three 9-point options, and we are proposing that only one option is needed to effectively capture public benefit for projects that will not achieve 10 points. This simplification will help prioritize projects that are in a state or local "pipeline", thus avoiding cost increases that ensue when these projects must re-apply multiple times.

    - Affordability Requirements (simplification): Require that all projects earning any points under the AFFH point category provide10% units at or below 30% Area Median Income (AMI) *and* additional 10% at or below 50% AMI. This simplification eliminates last year's experimental requirement for a very specific income-spread in low-resource and high-poverty/high-segregation locations. That income spread is not consistent with AFFH goals, and is, in some cases, incongruous with local needs.

    - Allocation of 50% Soft Cap: Ensure the 50% cap is allocated in a manner that achieves approximately 50% distribution within each pool and set-aside. If this is not specifically stated in the regulations, projects receiving AFFH points can be entirely located within set-asides and pools that are funded first, meaning high/highest resource area projects would be exclusive winners in the Black, Indigenous, People of Color (BIPOC), Homeless, and Extremely Low-Income (ELI)/Very Low-Income (VLI) categories. Conversely, projects in the geographic regions would have little incentive to compete for high/highest opportunity area points. While the proposal provides for a funding order as established by the Committee, we recommend the manner of distribution be written into the regulations to avoid any confusion regarding the Committee's direction on this allocation method.

As written, the 50% cap also appears to be a "hard cap" in which high/highest resource area projects could not be awarded after 50% of bond cap is allocated. We believe projects in high/highest opportunity areas should be able to compete on equal footing with other locations once the 50% cap is reached, as was the original intent of the "soft-cap" language.

2. ELI/VLI Set-Aside Public Funds Requirement: Consistent with the Board agreement in 2021, ELI/VLI set-aside provisions require either an award from HCD or a local award. This policy is working well and supports inter-agency alignment. The regulations should resolve a contradiction in definitions that affects this set-aside. Regulations indicate that 15% of Total Development Cost must be covered by public funds, but this currently conflicts with the Tax Credit Allocation Committee (TCAC) regulation citation referenced to define public funds, which has a more expansive definition including private soft financing. To clarify that public funds do not include private soft financing, we recommend updating the TCAC citation reference to Section 10325(c)(9)(A)(i).

3. Homeless Definition: Regulations should align the definition of Homeless projects with other state agencies. The CDLAC definition for the Homeless pool is narrower than either TCAC or HCD uses, with no apparent rationale. Varied definitions create implementation challenges for sponsors. We suggest the definition of Homeless include the entirety of TCAC's definition, including categories "2", "3" and "4", which encompass the Federal definition of Homelessness. Otherwise, youth experiencing homelessness, individuals and families fleeing domestic violence, and individuals imminently losing their nighttime residence will be excluded from access to Homeless units.

4. Community Revitalization Plan Definition: The definition of Community Revitalization Plan should be revised as previously recommended, which re-introduces the former definition associated with CDLAC's previous evaluation criteria in effect through 2020, with one modification, that community infrastructure expenditures be within the past five rather than three years.

5. Preservation Pool Definition: Although the Preservation Pool was already refined in the last cycle of regulatory revisions, one small loophole should be addressed. Currently, projects with rental assistance contracts that are not truly at-risk are included in the Preservation definition and can compete favorably in this limited pool. Projects with rental assistance contracts that are not truly at-risk for conversion should no longer be eligible for Preservation funds.

6. Other Rehabilitation Project Points: As well as the above technical fix to the Preservation Pool, we strongly recommend a needed improvement to the Other Rehabilitation Project Priorities criteria. To ensure Other Rehabilitation projects offer substantial public benefit, the points criteria should restrict related party seller equity take-outs. Allowing equity take-outs has, in the past, allowed profit to the exiting partnership that is significantly out-of-proportion to the public investment being made through acquisition and rehabilitation.

7. Tiebreaker Walkable Amenities: In the tiebreaker, proposed language does not appear to match what the Committee voted on in that these were walkable amenities per the December vote. We suggest that the walkable requirement is included in proposed language.

8. ELI/VLI Priority for Unused Bonds: We recommend that the Committee avoid future debates on the allocation of award reversions and remainders. In alignment with the stable statewide priority on deeply affordable housing, regulations should allocate to ELI/VLI applicants any unused bonds at the end of the final round/calendar year, any reversions from non-housing uses, and prioritize ELI/VLI on a waiting list ranking.

9. Geographic Apportionments: The table below reiterates the suggested distribution of Bond allocation among Geographic regions. This proposal groups high-FMR Counties with other high-FMR counties, and low FMR-Counties with other low FMR-Counties for extra security against any advantage to high-FMR Counties in the new tie-breaker methodology. This suggested bond allocation respects the data-based methodology employed in 2021, the first round of 2022, and adjusts for County shifts, avoiding any significant reward or disadvantage to any county or region.

	2021 Percent (R1)	2021 Percent (R2-3)	2022 Proposal	County Shifts
GEOGRAPHIC REGIONS (New Construction)	**40% (of QRRP)**	**40%**	**40%**	
Coastal Region	21%	20%	21%	Minus Santa Cruz, Plus Napa, Plus Sonoma
City of Los Angeles	18%	17%	17%	
Balance of LA County	17%	16%	16%	
Bay Area Region	17%	21%	21%	Plus Marin, Plus Santa Cruz
Inland Region	17%	16%	16%	Minus San Joaquin
Northern Region	10%	10%	9%	Minus Marin, Minus Napa, Minus Sonoma, Plus San Joaquin
Total Geographic Regions	**100%**	**100%**	**100%**	

Thank you in advance for your review and consideration.

Sincerely,

Lourdes M. Castro Ramírez, MA
Secretary

cc: The Honorable Betty T. Yee, State Controller
Keely Bosler, Director, DOF
Nancy Robles, Executive Director, CDLAC
Gustavo Velasquez, Director, HCD