

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

July 20, 2011

Consideration and Approval of Proposed CDLAC Regulations for Public Comment and Submittal to the Office of Administrative Law for Emergency and Regular Rulemaking Consideration
(Agenda Item No. 4)

ACTION

Approve proposed CDLAC Regulations for public comment and submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

BACKGROUND

During the last several months while CDLAC was pursuing the initial approval of its regulations, staff determined that there were a number of revision items that would need to be incorporated into those regulations once approved. With the approval and enactment of the CDLAC regulations on July 1, 2011, CDLAC now needs to begin the process of consideration of these revision items.

As part of CDLACs formulation of the revised text, CDLAC staff publicized and conducted an informal stakeholders' meeting to discuss the proposed changes to the CDLAC regulations on Tuesday, July 5, 2011. The revision items discussed were:

- *All Program Pools*: Confirmation of public benefits and ongoing compliance reporting (if applicable);
- *QRRP*: Sustainable building methods (in alignment with TCAC); and
- *QRRP*: Revision of Section 5190(b): Local Approvals and Zoning.

The Issuers present expressed general concern regarding the proposed deadline for the compliance reporting self-certification submittal. Those with large portfolios were particularly concerned that the deadline would not provide the time necessary to verify all project information. In response to this concern, staff modified the proposed text to include a one-time extended deadline of September 1, 2012 for all pre-2011 bond issuance Projects. Additionally, questions regarding the self-certification method of delivery were addressed. Similar to the delivery method now allowed for Annual Compliance Certifications, staff expects to accept self-certifications via hard copy or a scanned PDF format.

Staff proposes the following revisions to the existing CDLAC regulations adopted on July 1, 2011:

1. New Annual Applicant Public Benefits and On-going Compliance Self Certification Requirement

Staff proposes a new Applicant self-certification requirement that would provide confirmation that the applicable initial and on-going public benefits of a Project are adequately tracked and accounted for by the Issuer. At the July 5, 2011 stakeholder meeting, Issuers indicated that historically, they had performed limited monitoring of Project public benefits and that for high volume Issuers, fulfilling the self-certification requirement would take considerable time and effort on their part. In response, staff has revised the proposed language to include a one-time extended deadline for submitting pre-2011 Project self-certifications.

Section 5144: Annual Applicant Public Benefits and On-going Compliance Self Certification. All Projects that receive an Allocation shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). The Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification provided on the Committee website certifying whether or not the Project meets the terms and conditions of the Committee Resolution. The self certification must be submitted by the Applicant to the California Debt Limit Allocation Committee no later than March 1 of each year (or at such other time as requested by the Committee). For calendar year 2012 only, Issuers shall submit self-certifications for pre-2011 bond issuances no later than the extended deadline of September 1,

2012. The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy.

2. Modification to Existing Local Approvals and Zoning Requirement for Qualified Residential Rental Program Projects

Staff proposes revised language to clarify CDLAC's requirement that all approvals that are discretionary and/or subject to public appeal must be in place at the time of application.

Section 5190(b): Local Approvals and Zoning. The Project Sponsor shall provide evidence, at the time the Application is filed, that the site is zoned for the Project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials and/or subject to public appeal have been obtained. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits. ~~Notwithstanding the first sentence of this subdivision, local land use approvals not required to be obtained at the time of Application include, design review, initial environmental study assessments, variances, and development agreements.~~ The Applicant may include a completed Verification of Zoning and Local Approvals form signed by an appropriate local government planning official of the applicable local jurisdiction for the purpose of satisfying this requirement.

3. New Rural New Construction Qualified Residential Rental Program Project Requirement

In rural areas, there is significantly greater potential for one new project to negatively impact the lease-up schedule for another project since each may be drawing from a limited pool of eligible households in the area. Staff proposes a policy similar to both the USDA Rural Housing Services and TCAC "build and fill" policies. CDLAC would no longer award allocation to a rural project if another affordable project is still under development or undergoing initial lease-up. This policy will only apply if the proposed new construction project would be marketed to the same population (senior, large family, etc.) as a project under development. The Executive Director may grant a waiver where newly constructed housing would be replacing specific existing housing, subsequent phases of new construction (as detailed in the initial phase application), or where extraordinary demand warrants an exception to the prohibition. *See Section 5200 of the proposed regulations (ATTACHMENT A).*

4. New Minimum Sustainable Building Standards Requirement

Consistent with the recent TCAC adopted regulations, the proposed changes will ensure that Projects developed today will continue to be energy efficient throughout their compliance period. The proposed changes would establish an energy-efficiency standard 15% above the current state energy code for new construction projects and 10% above the current state energy code for rehabilitation projects. In addition, these standards are intended to further the state's energy efficiency goals as articulated by the California Energy Commission and California Public Utilities Commission. **See NEW SECTION NUMBER: Minimum Sustainable Building Standards of the proposed regulations (ATTACHMENT A).**

5. Revised Sustainable Building Methods Point Criteria

Staff proposes a complete revision to the current Sustainable Building Method point criteria. The changes would be consistent with the recently adopted TCAC regulations and also conform to some 2010 and 2011 California Energy Code and CalGreen Code changes. The new point structure would also provide Applicants with additional maximum point options. **See Section 5230 of proposed regulations (ATTACHMENT A).**

6. Community Revitalization Area Clarification Language for the Qualified Residential Rental Program Application

Staff proposes to add Target Employment Areas (TEA's) to the eligible Enterprise Zone-related areas. A TEA is a state-approved area whose residents automatically qualify Enterprise Zone employers for hiring tax credits.

The area is in a state designated Enterprise Zone (including Manufacturing Enhancement Area, ~~or~~ Targeted Tax Area, and Target Employment Areas).

DISCUSSION

Staff proposes to make the proposed regulations available to the public for a pre-notice period of 15 days. If no substantial changes are found to be necessary after the 15-day pre-notice period, staff will then submit an emergency rulemaking package to OAL for a 5-day public comment period. The emergency regulations would become effective ten (10) days after the filing. Staff will later follow up with a regular rulemaking filing necessary to permanently adopt the proposed changes. During the permanent rulemaking period, the public will have an additional 45-day public comment period opportunity.

RECOMMENDATION

Staff recommends approval of the proposed CDLAC regulations for public comment and submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

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ATTACHMENT A
Proposed Regulations Changes
(Proposed new language is underlined and deleted language is struck)

Article 11. Reporting Requirements

Section 5140. Contact Information. All reports required in this article shall be transmitted to the Committee at the address, e-mail or fax number listed on the Committee's website, www.treasurer.ca.gov/cdlac.

Section 5141. Notification of Bond Issue. Within twenty-four (24) hours of using the Allocation to issue Bonds or to convert Bond authority to Mortgage Credit Certificate authority, an Applicant or its counsel shall notify the Committee of such use of the Allocation via the e-mail address or facsimile number as provided in section 5140. The notification shall identify the Applicant, the Project or program, the date the Allocation was used, and the amount of the Allocation used.

Section 5142. Report of Action Taken. Within fifteen (15) calendar days of the first Bond closing, conversion of Bonds to Mortgage Credit Certificate authority, or issuance of the first Mortgage Credit Certificate, an Applicant or its counsel shall transmit to the Committee information regarding the issuance of Bonds or Mortgage Credit Certificates by submitting the appropriate Report of Action Taken to the address as provided in section 5140.

Section 5143. Notification of Carry-Forward Election. Applicants awarded Allocation on a carry-forward basis as proscribed in section 5131 shall transmit to the Committee, via the address provided in section 5140, the documents provided to the Internal Revenue Service reporting the carry-forward election no later than February 1st of the year immediately following the year in which the Allocation was awarded.

Section 5144. Annual Applicant Public Benefits and On-going Compliance Self Certification. All Projects that receive an Allocation shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). The Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification provided on the Committee website certifying whether or not the Project meets the terms and conditions of the Committee Resolution. The self certification must be submitted by the Applicant to the California Debt Limit Allocation Committee no later than March 1 of each year (or at such other time as requested by the Committee). For calendar year 2012 only, Issuers shall submit self-certifications for pre-2011 bond issuances no later than the extended deadline of September 1, 2012. The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy.

Section ~~5144~~5145. Annual Notification of Bond Issuances. All Applicants shall transmit to the Committee, via the address provided in section 5140, an annual report on the use of all Allocation and which portion of the State Ceiling was used for each Project, no later than January 15 of the following calendar year. Applicants must identify all Draw-down Bond Issuances and the unused Allocation balance for each award.

Chapter 2. Qualified Residential Rental Projects

Article 1. Definitions.

Section 5170. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms shall have the meanings set forth in this chapter.

"Adaptive Reuse" means the retrofitting and repurposing of existing buildings that create new Qualified Residential Rental Project units for the market, and expressly excludes any Project that involves rehabilitation or any construction affecting existing residential rental units.

"Area Median Income (AMI)" means the median family income of a county as set by the U.S. Department of Housing and Urban Development.

"Capital Needs Assessment" means a document containing the information defined in section 5212.

“Community Revitalization Area” means a Distressed Community for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to the plan have occurred.

“Community Revitalization Plan” means a comprehensive plan adopted by a public entity that details specific efforts being undertaken in a neighborhood or a community, that will result in the improvement of the economic conditions and the quality of life in that area.

“Energy Star” means the certification satisfying the requirements of 42 U.S.C. section 6294(a).

“Federally Assisted At Risk Project” means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c)(4) and by section 10325(g)(5)(B)(i)-(v) of Title 4 of the California Code of Regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code section 17058(c)(4) and section 10325(g)(5)(B)(i) of Title 4 of the California Code of Regulations, except that the federal assistance due to expire within two (2) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

“Gross Rent” means gross rent as defined by 26 U.S.C. 42(g)(2)(B). Utility allowances, as provided by 26 U.S.C. section 42(g)(2)(B)(ii), will be included for purposes of this calculation. Projects that are Federally Assisted At Risk Projects or Projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

“HOPE VI Project” means a Project funded by a grant from the Urban Revitalization Program created by Public Law 102-389 and administered by the Department of Housing and Urban Development under section 24 of the United States Housing Act of 1937 (42 U.S.C. section 1437(v)).

“Mixed Income Project” means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units.

“New Construction” means a Qualified Residential Rental Project in which 100% of its units constitute new units to the market, and expressly excludes any Project that involves rehabilitation or any construction affecting existing residential rental units.

“Public Funds” means direct grants, below market rate or subsidized loans, loans where the repayment of the financing is deferred into the future or based on residual receipts from the Project’s cash flow, direct funds from a public source including, but not limited to, waiver of fees or the value of land donated or leased by a public agency substantiated by an independent, third party appraisal conducted within the previous twelve (12) months, excluding a property tax exemption. Public Funds do not include any Allocation awarded by the Committee.

“Qualified Project Period” shall mean the same as defined in 26 U.S.C. section 142(d)(2)(A) and regulations promulgated there under, except that the minimum term shall be 30-years.

“Redevelopment Agency Housing Set Aside Program” means a program to assist redevelopment agencies to maximize the impact of housing set aside programs established and funded pursuant to Health and Safety Code section 33334.2 through the use of housing set aside as security for the repayment of tax-exempt private activity Bonds.

“Scattered Site Project” means multiple location Projects which are either At-Risk Projects within the same city or within five (5) miles of each other; or Non-At Risk Projects within one (1) mile of each other.

“Standard QRRP Competitive Application” means the Application for an Allocation of the Qualified Residential Rental Project Pool titled “Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)” (revised 1-11-11), which is hereby incorporated by reference.

“Standard QRRP Non-Competitive Application” means the Application for an Allocation of the Qualified Residential Rental Project Pool titled “Non-Competitive Application for an Allocation of the State Ceiling on

Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)” (revised 1-11-11), which is hereby incorporated by reference.

“Supplemental Allocation” means the award of Allocation to a Qualified Residential Rental Program Applicant for a Project that received previous Allocation.

“Supplemental Allocation Request Letter” means the written request of Supplemental Allocation for Projects having been awarded Allocation within the last thirty six (36) months that may be submitted in lieu of a complete Application. The letter must be signed and include information about the Project including the date and amount of prior Allocation, the current status of the Project, revised sources and uses of funds, justification for the request for additional Allocation, and any additional information the Committee or Executive Director deems necessary.

“Sustainable Building Methods” means any method or materials used in the development or rehabilitation of a Qualified Residential Rental Project that will increase energy efficiency by at least 15% above the energy standards set forth by the California Energy Commission in Part 6 (commencing with section 10-101) of Title 24 of the California Code of Regulations or a rehabilitation Project not subject to Title 24 Standards that reduces energy use on a per square foot basis by 25%.

“Table 1” means the table included in the Applications for a Qualified Residential Rental Project that itemizes the proposed number of units, square footage, rent, utility allowance, and the income restriction each unit or other characteristics deemed appropriate by the Committee for the subject Project.

“Table 2” means the table included in the Applications for a Qualified Residential Rental Project that itemizes the proposed total of all units, all restricted units, the number and percentage of units restricted for households at or below 50% of AMI, at or below 60% of AMI, or other characteristics deemed appropriate by the Committee for the subject Project.

“Universal Competitive Addendum” means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development for an Allocation of the Qualified Residential Rental Project Pool titled “Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum” (revised 1-11-11), which is hereby incorporated by reference.

“Universal Non-Competitive Addendum” means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development for an Allocation of the Qualified Residential Rental Project Pool titled “Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum” (revised 1-11-11), which is hereby incorporated by reference.

“VOC” means a volatile organic compound.

Article 2. Applications

Section 5180. Application Process. Applicants seeking an Allocation of the Qualified Residential Rental Project Pool shall be considered in accordance with the provisions of chapter 1 and the submission of a Standard QRRP Competitive Application or a Standard QRRP Non-Competitive Application depending on whether the Allocation Round for which the Application is being submitted is being conducted under a competitive or non-competitive process as provided in section 5010(b).

Section 5181. Concurrent Application with Other Agencies. Applicants for an Allocation of the Qualified Residential Rental Project Pool that also seek financing in conjunction with the California Department of Housing and Community Development and/or the California Housing Finance Agency may submit a Universal Competitive Addendum or a Universal Non-Competitive Addendum depending on whether the Allocation Round for which the

Application is being submitted is being conducted under a competitive or non-competitive process as provided in section 5010(b).

Section 5182. Concurrent Application with CTCAC. Applicants requesting an Allocation for a Qualified Residential Rental Project who concurrently have an application for the same Project filed with CTCAC for consideration under the nine (9%) percent program set forth in section 10325 of Title 4 of the California Code of Regulations will not be permitted to apply to the Committee unless the application to CTCAC is withdrawn prior to the Application deadline.

Section 5183. Subsequent Application with CTCAC. Applicants that receive an Allocation for a Qualified Residential Rental Project are prohibited from subsequently requesting an allocation of 9% low income housing tax credits from CTCAC for the same Project, except where the Executive Director grants a waiver based on extraordinary circumstances, including but not limited to, the passage of significant time or circumstances outside the Applicant's control, and makes a determination that the waiver is consistent with the provision of affordable housing.

Article 3. Minimum Requirements

Section 5190. Readiness. In its Application, the Project Sponsor must demonstrate its readiness to use the Allocation as set forth in this section.

(a) Demonstrated site control. The Applicant shall provide evidence that the Project site is at the time of Application submission within the control of the Applicant or Project Sponsor. A current title report, completed no more than ninety (90) days prior to Application deadline as provided in section 5030, shall be submitted with all applications for the purposes of this requirement.

(1) Site control may be evidenced by any of the following:

(A) The Applicant or Project Sponsor holds fee title as evidenced by the title report;

(B) An executed lease agreement or lease option for the length of time the Project will be regulated under this program between the Applicant or Project Sponsor and the owner of the subject property;

(C) An executed disposition and development agreement between the Project Sponsor and a public agency; or

(D) A valid, current, enforceable contingent purchase and sale agreement or option agreement between the Project Sponsor and the owner of the subject property, including evidence that all extensions necessary to keep agreement current through the date of the award of allocation have been executed.

(E) Valid, current and enforceable purchase and sale agreements, contingent purchase sale or option agreements in combination between the Project Sponsor, a third party and the owner of the subject property such that the Committee can determine that upon a grant of Allocation the Project Sponsor has a right to acquire the subject property.

(F) The Executive Director may determine that site control has been demonstrated where a local agency has documented its intention to acquire the site, or portion of the site, through eminent domain proceedings as evidenced by order(s) of possession.

(b) Local Approvals and Zoning. The Project Sponsor shall provide evidence, at the time the Application is filed, that the site is zoned for the Project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials and/or subject to public appeal have been obtained. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits.

~~Notwithstanding the first sentence of this subdivision, local land use approvals not required to be obtained at the time of Application include, design review, initial environmental study assessments, variances, and development agreements.~~—The Applicant may include a completed Verification of Zoning and Local Approvals form signed by an appropriate local government planning official of the applicable local jurisdiction for the purpose of satisfying this requirement.

Article 4. Market Studies.

Section 5200. Minimum Requirements. A full Market Study prepared within (180) days of the Application deadline by an independent third party having no identity of interest with the Applicant, Project Sponsor, or Related Party is required. The study must meet the current Market Study guidelines distributed by the Committee, and establish both need and demand for the proposed Project. If the Market Study does not meet the guidelines or support sufficient need and demand for the Project, the Application may be considered ineligible to receive an award of Allocation. Except where a waiver is obtained from the Executive Director in advance of a submitted application, CDLAC shall not award an allocation to a rural new construction project if a tax-exempt bond, tax credit, or other

publicly-assisted project housing the same population is currently under construction within the same market area. The Executive Director may grant a waiver where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition. The Executive Director may also grant a waiver for subsequent phases of a single new construction project where those phases are described in the application of the initial phase.

NEW SECTION NUMBER: Minimum Sustainable Building Standards.

(a) Applicants shall provide a certification of their intent to utilize landscaping and construction materials which are compatible with the neighborhood in which the proposed project is to be located, and that the architectural design and construction materials will provide for low maintenance and durability, as well as be suited to the environmental conditions to which the project will be subjected. Additionally, the certification of intent shall note that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects:

(1) Energy Efficiency. All new construction buildings shall be fifteen percent (15%) better than the current Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). All rehabilitated buildings shall have improved energy efficiency above the modeled energy consumption of the building(s) based on existing conditions, with at least a 10% post-rehabilitation improvement over existing conditions energy efficiency achieved for each building.

(2) CALGreen Compliance. New construction high-rise buildings shall meet the mandatory provisions of the CALGreen Code (Title 24, Part 11 of the California Code of Regulations). All rehabilitation projects, including high-rise rehabilitation projects, are required to meet the mandatory provisions of the CALGreen Code for any building product or system being replaced as part of the scope of work.

(3) Landscaping. A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the State's Model Water Efficient Landscape Ordinance (<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.

(4) Roofs. Roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.

(5) Exterior Doors. Insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad or hardwood faces, with a standard one-year guarantee and all six sides factory primed.

(6) Appliances. ENERGY STAR rated appliances, including but not limited to, refrigerators, dishwashers, and clothes washers shall be installed when such appliances are provided within Low-Income Units and/or in on-site community facilities unless waived by the Executive Director.

(7) Window Coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.

(8) Water Heater. For units with individual tank-type water heaters, minimum capacities are to be 30 gallons for one- and two-bedroom units and 40 gallons for three-bedroom units or larger.

(9) Floor Coverings. For light and medium traffic areas vinyl or linoleum shall be at least 3/32" thick; for heavy traffic areas it shall be a minimum 1/8" thick. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Carpet complying with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D, or alternatively, cork, bamboo, linoleum, or hardwood floors shall be provided in all other floor spaces unless this requirement is specifically waived by the Executive Director.

(10) Paint. Use of Low Volatile Organic Compound (VOC) paints and stains (Non-flat: 150 g/l or less, Flat: 50 g/l or less) for all interior surfaces where paints and stains are applied.

(11) Insulation. All fiberglass-based insulation shall meet the Greenguard Emission Criteria for Children and Schools

(http://greenguard.org/en/CertificationPrograms/CertificationPrograms_childrenSchools.aspx).

(b) If a rehabilitation applicant does not propose to meet the requirements of this section, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive.

(c) Compliance and Verification. Evidence of Compliance is to be submitted to CDLAC as an attachment to the first Certification of Compliance (the form of which is attached to the project resolution and which is required to be submitted on March 1 of each year). For projects not yet placed in service, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds.

(1) Under subdivision (a)(1), Applicants with new construction projects that have been placed-in-service must submit the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards

(2) Under subdivision (a)(1), Applicants with rehabilitation projects must submit the California Energy Commission HERS II energy consumption and analysis report which shows the pre- and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement, in their placed-in-service package.

(3) For subdivisions (a)(2) through (a)(11), Applicants shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:

- o A certified HERS Rater
- o A certified GreenPoint Rater; or
- o A US Green Building Council Certification.

(4) Failure to produce appropriate and acceptable third party documentation for subdivisions (a)(1) through (a)(11) of this section may result in negative points.

Article 7. Evaluation Criteria

Section 5230. Evaluation Criteria.

(k) Sustainable Building Methods (~~8~~**10** points maximum).

~~(1) Points described in this subdivision will be awarded provided that the Project Sponsor and the licensed Project architect or mechanical engineer each submit a certification on company letterhead indicating which items, commencing with subdivision (k)(3) of this section, will be included in the Project's design and any relevant specifications.~~

~~(2) In addition to the certification required in subdivision (k)(1) of this section, t~~The Project Sponsor shall submit a certification at Project completion from the Project's licensed architect or mechanical engineer that the design elements that formed the basis for any award of points pursuant to this section have been met or exceeded. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under this section who fails to meet this requirement will be subject to negative points under subdivision (n) of this section.

~~(3) Projects that develop and commit to certifying the Project under any one of the following programs: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Multifamily Guidelines will receive eight (8) points.~~

~~(4) Projects defined as either New Construction or Adaptive Reuse that exceed the energy standards set forth in Title 24 of the California Code of Regulations by at least 10%, or a rehabilitation Project not subject to Title 24, that reduces energy use on a per square foot basis by 25% as calculated using a methodology approved by the California Energy Commission will receive five (5) points.~~

~~(5) Projects that incorporate items from the following list will receive one (1) point for each item used in the Project, up to a maximum of three (3) points:~~

~~(A) Energy Star rated ceiling fans in all bedrooms and living rooms; or use of a whole house fan; or use of an economizer cycle on mechanically cooled HVAC systems.~~

~~(B) Water-saving fixtures or flow restrictors in the kitchen (2 gpm or less) and bathrooms (1.5 gpm or less).~~

~~(C) At least one high efficiency toilet (1.3 gallons per flush) or dual flush toilet per unit.~~

~~(D) Material for all cabinets, countertops and shelving that is free of added formaldehyde or fully sealed on all six (6) sides by laminates and/or a low-VOC primer or sealant (150 grams per liter or less).~~

~~(E) Interior paint with no volatile organic compounds. (5 grams per liter or less).~~

~~(F) CRI Green-label, low-VOC carpeting and pad and low-VOC adhesives 25 grams per liter or less.~~

~~(G) Bathroom fans in all bathrooms that exhaust to the outdoors and are equipped with a humidistat sensor or timer.~~

~~(H) Formaldehyde-free insulation.~~

~~(I) At least one of the following recycled materials at the designated levels: a) cast-in-place concrete (20% flyash); b) carpet (25%); c) road base, fill or landscape amendments (30%).~~

~~(J) Design the elements to retain, infiltrate and/or treat on-site the first one-half (1/2) inch of rainfall in a 24-hour period.~~

~~(K) Inclusion of a construction indoor air quality management plan that requires the following: a) protection of construction materials from water damage during construction; b) capping of ducts during construction; c) cleaning of ducts upon completion of construction; and d) for rehabilitation Projects, implementation of a dust control plan that prevents particulates from migrating into occupied areas.~~

~~(L) The following design features in at least half of the Project's units: accessible routes of travel to the dwelling units with accessible 34" minimum clear opening width entry and interior doors with lever hardware and 42" minimum width hallways; accessible full bathroom on primary floor with 30" x 60" clearance parallel to the entry to 60" wide accessible showers with grab bars, anti-scald valves and lever faucet/shower handles, and~~

reinforcement applied to walls around toilet for future grab bar installations; accessible kitchen with 30" x 48" clearance parallel to and centered on front of all major fixtures and appliances.

(M) Inclusion of no-smoking buildings or sections of buildings. To be eligible for an award pursuant to this subdivision, the no-smoking sections must consist of at least half the units within the building, and those units must be contiguous.

(N) An allocation of Historic Tax Credits as defined under 26 U.S.C. section 47(a).

(O) For rehabilitation Projects not subject to Title 24 Standards, use of florescent light fixtures for at least 75% of light fixtures or comparable energy saving lighting for the Project's total lighting (including community rooms and any common space) throughout the compliance period.

(3) New Construction and Adaptive Reuse Projects: Five (5) points will be awarded to projects that commit to developing the project in accordance with the minimum requirements of any one of the following programs: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Multifamily Guidelines.

(4) For project's receiving points under subdivision (k)(3) of this section, additional points for energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in Title 24, Part 6, of the California Building Code (the Standards) under which the project is constructed, shall be awarded as follows:

<u>Percentage better than the current Standards</u>	<u>Low-Rise Multifamily (3 or fewer habitable stories)</u>	<u>High-Rise Multifamily (4 or more habitable stories)</u>
<u>17.5 percent</u>	<u>2 points</u>	<u>3 points</u>
<u>20 percent</u>	<u>3 points</u>	<u>5 points</u>
<u>25 percent</u>	<u>5 points</u>	

(5) For project's receiving points under subdivision (k)(3) of this section, applicants may be awarded points for committing to developing their project beyond the minimum requirements of the green building program chosen in subdivision (k)(3) of this section:

<u>LEED</u>	<u>Silver</u>	<u>Gold</u>
<u>GreenPoint Rated</u>	<u>100</u>	<u>125</u>
	<u>3 points</u>	<u>5 points</u>

(6) Rehabilitation Projects: The project will be rehabilitated to improve energy efficiency above the modeled energy consumption of the building(s) based on existing conditions. Points are awarded based on the building(s) percentage decrease in estimated annual energy use (or improvement in energy efficiency) in the building's Home Energy Rating System II (HERS II) rating post rehabilitation:

<u>Improvement Over Current</u>	
<u>15 percent</u>	<u>3 points</u>
<u>20 percent</u>	<u>5 points</u>
<u>25 percent</u>	<u>7 points</u>
<u>30 percent</u>	<u>10 points</u>

(7) Additional Rehabilitation Project Measures.

(A) For project's receiving points under subdivision (k)(6) of this section, applicants may be awarded three (3) points for committing to developing, and/or managing, their project with one or more of the following:

(i) Photovoltaic (PV) generation that offsets tenant loads; or

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

(iii) Solar hot water for all tenants who have individual water meters.

(B) For projects receiving points under subdivision (k)(6) of this section, applicants may be awarded three (3) points for projects that implement sustainable building management practices including:

(i) Develop a project-specific maintenance manual including replacement specifications and operating information of all energy and green building features; and

(ii) Certify building management staff in sustainable building operations per BPI Multifamily Building Operator or equivalent training program; and

(iii) Undertake formal building systems commissioning, retro-commissioning or re-commissioning as appropriate (continuous commissioning is not required).

(C) Applicants may be awarded three (3) points for individually metering or sub-metering currently master-metered gas, electricity, or central hot water systems for all tenants.

(8) Compliance and Verification. Evidence of Compliance is to be submitted to CDLAC as an attachment to the first Certification of Compliance (the form of which is attached to the project resolution and which is required to be submitted on March 1 of each year). For projects not yet placed in service, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds. Compliance will be demonstrated as follows:

(A) For Applications that receive points under subdivisions (k)(3) and (k)(5) of this section, the applicant must submit the appropriate required third party verification documentation showing the project has met the requirements for the relevant program.

(B) For Applications that receive points under subdivision (k)(4), the applicant must submit the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards. This compliance form must be the output from the building(s) modeled "as built" and reflect all relevant changes that impact the building(s) energy efficiency that were made after the preliminary reservation application. The compliance form must be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Plans Examiner (CEPE). Documentation for measures that require verification by California Home Energy Rating System (HERS) Raters must also be submitted.

(C) For Applications that receive points under subdivision (k)(6), the applicant must submit the California Energy Commission HERS II energy consumption and analysis report, developed using the Home Energy Retrofit Coordinating Committee's multifamily protocols, which shows the pre- and post- rehabilitation HERS II estimated annual energy use demonstrating the required improvement and is signed by a qualified HERS Rater.

(D) For Applications that receive points under subdivision (k)(7) the applicants must submit the following documentation:

(i) For projects including photovoltaic generation that offsets tenant loads, the applicant must submit a Multifamily Affordable Solar Home (MASH) Program field verification certification form signed by the project's solar contractor and a qualified HERS Rater, and a copy of the utility interconnection approval letter.

(ii) For sustainable building management practices implemented by appropriately trained onsite staff, the applicant must submit a copy of the energy management and maintenance manual, provide evidence onsite staff has been certified in green building operations and maintenance through the Building Performance Institute Multifamily Energy Efficient Building Operator or equivalent training, and submit the building commissioning plan drafted in accordance with the California Commissioning Collaborative's best practice recommendations for existing buildings or the GreenPoint Rated Multifamily Commissioning requirements. Owner certification of ongoing sustainable building management practices will be provided annually in accordance with Section (new section)(A).

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

(9) Failure to produce the appropriate documentation for subdivisions (1) through (7) of this subsection may result in an award of negative points for the Project Sponsor.