

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**

**March 21, 2012**

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

**ACTION**

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

**BACKGROUND**

On February 1, 2012, the California Tax Allocation Committee updated their regulations. In an effort to align the CDLAC Regulations with TCAC's changes, and also modify other various CDLAC regulations, staff proposes an emergency regulation process to modify the current regulations to reflect said changes.

The following are the proposed revisions not previously considered by the Committee members:

- *Qualified Residential Rental Program: Market Study*
- *Qualified Residential Rental Program: Public School Proximity*
- *Qualified Residential Rental Program: Medical Facility*
- *Qualified Residential Rental Program: Grocery Store Minimum Square Footage Requirement*
- *All Program Pools: Removal of References to Redevelopment Agencies*
- *Qualified Residential Rental Program: Clarify Language for Exceeding Minimum Rents*
- *Qualified Residential Rental Program: Clarify WiFi Requirements*
- *Qualified Residential Rental Program: Removal of Mechanical Engineer Certification*
- *Qualified Residential Rental Program: Require Additional Architect Information*
- *All Program Pools: Add Single Family Housing Program Applicants to the Annual Applicant Public Benefits and Ongoing Compliance Self-Certification*

1. **Revision of CDLAC Regulations for Market Study**

To realign with TCAC regulation changes, add TCAC market study requirements to CDLAC regulations. In revision, establish rent-change percentage standards for market study updating and other timeliness requirements. Finally, clarify that rural new construction projects with a tax credit reservation are equivalent to projects under construction for purposes of the rural "build-and-fill" policy.

2. **Revision of CDLAC Regulations for Public School Proximity**

To realign with TCAC regulation changes, CDLAC regulations are being amended to require the site is (a) within ¼ mile of a public elementary school; ½ mile of a public middle school; or one (1) mile of a public high school, (an additional ½ mile for each public school type for Rural projects).

3. **Revision of CDLAC Regulations for Medical Facility**

To realign with TCAC regulation changes, CDLAC regulations for medical clinics are being amended to require on-site physician, or physician's assistant, or nurse practitioner at least 40 hours per week.

4. Revision of CDLAC Regulations for Grocery Store Minimum Square Footage Requirement

To realign with TCAC regulation changes, CDLAC regulations are being amended to require a minimum square footage for Projects seeking points for close proximity to grocery markets.

5. Revision of CDLAC Regulations for the Removal of References to Redevelopment Agencies

Due to the dissolution of redevelopment agencies, language is being revised to omit the mentioning of said agencies.

6. Revision of CDLAC Regulations to Clarify Language for Exceeding Minimum Rents

Clarify the requirements for exceeding the minimum rent restrictions. Include language to include all unit types must be at least 20% below the market rents in order to receive points in this category and that the Applicant will receive points for the average percentage below 20% of the market rents.

7. Revision of CDLAC Regulations to Clarify Requirements for WiFi

For Projects seeking points for WiFi site amenity, clarify service must be in place by the Project's placed in service date. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of 10 years, free of charge to the tenants, and available at the time of the project's placed-in-service date.

8. Revision of CDLAC Regulations for the Removal of Mechanical Engineer Certification

Under the recently adopted Sustainable Building Methods point criteria, a mechanical engineer certification is no longer acceptable evidence of Project eligibility. Regulations are being amended to omit this certification option.

9. Revision of CDLAC Regulations for Additional Architect Information

Amend certifications to include additional architect information, including company name, address, and phone number. Architect letterhead requirements will be omitted.

10. Revision of the Annual Applicant Public Benefits and Ongoing Compliance Self-Certification Form

Amend the Annual Applicant Public Benefits and Ongoing Compliance Self-Certification to include a specific Single Family Housing Program self-certification section.

Proposed emergency CDLAC regulations are attached.

**DISCUSSION**

Should the Committee approve these revisions, staff plans to then submit the emergency rulemaking package to OAL immediately thereafter. A 5-day public comment period will commence on the day of submittal, with possible enactment within 10 days thereafter.

**RECOMMENDATION**

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

*Prepared by: Annie Ong*

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

**Chapter 1. General Provisions**

**Article 1. Definitions**

**Section 5000. Definitions.** In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this division are defined as follows:

“Accredited Investor”, also known as a “Sophisticated Investor”, means an entity as defined by the United States Securities and Exchange Commission under Rule 501, regulation D of the Securities Act of 1933.

“Allocation” means the portion of the State Ceiling awarded by the Committee to an Applicant.

“Allocation Round” means a meeting or series of meetings of the Committee during which a pre-determined portion of the State Ceiling is made available for allocation by the Committee to one or more Applicants selected by the Committee during that meeting or series of meetings.

“Annual Applicant Public Benefits and Ongoing Compliance Self-Certification (10-1-11)”, hereby incorporated by reference, means the document provided in the Committee Resolution to be completed by the Issuer in which the Issuer certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

“Applicant” means any state or local governmental agency, joint powers authority (JPA), special district, nonprofit public benefit corporation that issues only student loan Bonds or any other public agency that is empowered to issue debt that submits an Application to the Committee.

“Application” means the request by an Applicant to the Committee for an Allocation of the State Ceiling which shall include the information specified in article 4 of this chapter.

“Bond” means either a Qualified Private Activity Bond or a Governmental Bond as defined in this section.

“Bond Default” means a material default as defined within an Issuer’s Bond documents, but does not include for the purposes of this definition, defaults that are technical in nature such as a failure to maintain covenants, failing to charge rates sufficient to meet rate covenants, failing to maintain insurance on the Project, or failing to fund various reserves.

“Bond Regulatory Agreement” means the agreement between the Issuer, Project Sponsor, and any third party related to the ownership, financing, and management of a proposed Qualified Residential Rental Project that binds the parties to the commitments made in the Application that resulted in the Allocation for the Project and any other requirements mandated by 26 U.S.C. section 142.

“Census Designated Place” means a place designated as a census designated place by the Bureau of the Census.

“Certification of Compliance” means the document provided in the Committee Resolution to be completed by the Project Sponsor in which the Project Sponsor certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

“CIDFAC” means the California Industrial Development Financing Advisory Commission.

“CIEDB” means the California Infrastructure and Economic Development Bank.

“Committee” means the California Debt Limit Allocation Committee established by California Government Code sections 8869.80 et seq.

“Committee Resolution” means for any Allocation, the resolution duly adopted by the Committee that, among other things, memorializes the grant of the Allocation by the Committee to the Applicant.

“Competitive Application Process” means the procedure under which the Committee will evaluate an Application for an award of Allocation that is competitive based upon the number of points each Application is awarded. Applications submitted under this process will be awarded points only when the Project qualifies for such points and evidence supporting an award of points is documented in the Application when submitted. The Committee will not consider documentation for an award of points submitted after the Application deadline, nor will the Committee review an incomplete Application except to determine whether the Application is complete.

“Credit Enhancement” means the additional assurance provided by a third party pursuant to a payment guaranty, letter of credit, bond insurance or other similar vehicle with a marketable investment grade credit rating.

“Credit Enhancer” means the party providing Credit Enhancement.

“CTCAC” means the California Tax Credit Allocation Committee.

“Deemed Waived” means any designated Qualified Energy Conservation Bond and/or Recovery Zone Bond Allocation not issued or included in a Plan of Issuance by August 15, 2010 that may automatically be deemed returned to CDLAC for reallocation.

“Distressed Community” means a community that the Applicant demonstrates to be any one or more of the following:

- A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department’s most recent annual average for sub-county areas.
- A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.
- A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place such as a census tract or tracts, smaller geographic areas will be used.
- A state designated Enterprise Zone (including a Manufacturing Enhancement Area or Targeted Tax Area).
- A federally designated Empowerment Zone, Enterprise Community or Renewal Community as defined in 26 U.S.C. section 1392.
- ~~A redevelopment project area adopted pursuant to California Health and Safety Code sections 33000 et seq. where the Committee determines that the project area meets the definition of “blighted area” contained in California Health and Safety Code section 33030.~~

“Draw-down Bond Issuance” means a draw-down loan as defined for purposes of 26 U.S.C. sections 103 and 141 through 150 (generally, a Bond issue in which Bonds are delivered to the Bond purchaser intermittently as funds are needed by the Bond Issuer and the Bond Issuer only provides payments based on the amount of Bonds drawn-down).

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“Eligible QECB Reallocation Applicant” means any city, county (acting directly or through an entity acting on behalf of the city or county pursuant to a joint powers agreement), state entity or Indian tribal government located in the State of California.

“Eligible QECB Reallocation Issuer” means a State or political subdivision as defined for purposes of U.S. Treasury Regulations, section 103, and entities empowered to issue Bonds on behalf of any such entity under rules similar to those for determining whether a Bond issued on behalf of a State or political subdivision constitutes an obligation of that State or political subdivision for purposes of U.S. Treasury Regulations, section 103.

“Executive Director” means the Executive Director of the Committee.

“Exempt Facility Project” means a Project financed with an exempt facility bond satisfying the requirements of 26 U.S.C. section 142, except that airports, docks and wharves, governmentally owned solid waste disposal facilities, and Qualified Residential Rental Projects shall not be considered exempt facilities for purposes of these regulations.

“Exempt Facility Project Pool” means the reserve of the State Ceiling established by the Committee for Exempt Facility Projects.

“Extra Credit Teacher Home Purchase Program” means a program offering Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds to eligible teachers, eligible administrators, eligible classified employees, and eligible staff members for the purpose of assisting them in becoming homeowners.

“Extra Credit Teacher Home Purchase Program Pool” means the reserve of the State Ceiling established by the Committee for the Extra Credit Teacher Home Purchase Program.

“General Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee that does not include either Rural Projects or Mixed Income Projects.

“Governmental Bond” means a Bond issued by or on behalf of a governmental entity that is not considered a Qualified Private Activity Bond.

“Investor Representation Letter” means a letter from initial investors of a Bond offering that includes but is not limited to a certification that they reasonably meet the standards of a Sophisticated Investor or Qualified Institutional Buyer, that they are purchasing Bonds for their own account, that they have the sophistication to evaluate the merits and risks of the investment and suffer a loss of the investment, that they have been furnished all the information which they and their advisers requested on the offering and have had an opportunity to ask questions relating to that information, and other such matters.

“Issuer” means an entity empowered to issue Bonds.

“Job Creation” means new permanent full-time jobs created by the Project Sponsor. The number of jobs created shall be calculated after deducting any jobs within the State that are eliminated by the company. Job Creation must be met within two (2) years following the completion of the Project. The Job Creation requirement may be monitored by CIDFAC and CIEDB utilizing California Employment Development Department employment statistics.

“Job Wage” means the average hourly general manufacturing wage for the Metropolitan Statistical Area in which a Project is located, based on the Bureau of Labor Statistics Series Code from the California Employment Development Department. If a Project is not located in an area for which the Employment Development Department keeps hourly wage data or not located in a defined Metropolitan Statistical Area, the closest comparable area in which hourly wage is available may be used.

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“LEED Certified” means Leadership in Energy & Environmental Design certification by the U.S. Green Building Council.

“Local Issuer” means a local government entity that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs or small-issue industrial development Bonds or a joint powers authority that issues small-issue industrial development Bonds on behalf of a local government entity.

“Market Study” means a comprehensive document prepared by a third party which contains information related to the Project’s market area.

“Metropolitan Statistical Area” means the geographic entity defined by the U.S. Office of Management and Budget (OMB).

“Mixed Income Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.

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

“Mortgage Credit Certificate” means a mortgage credit certificate as defined by 26 U.S.C. section 25(c)(1).

“Mortgage Revenue Bond” means a bond defined by 26 U.S.C. section 143(a).

“Mortgage Revenue Bond Program” means a program defined by 26 U.S.C. section 143(a).

“Nationally Recognized Statistical Rating Organization” means credit rating agencies that satisfy the requirements of 15 U.S.C. section 78(c)(62).

“Net Proceeds” means proceeds used for “recovery zone property” as defined in 26 U.S.C. 1400U-3(b)(1)(A).

“Open Application Process” means the procedure under which the Committee will evaluate an Application for an award of Allocation that is not competitive. The Committee will not review an incomplete Application except to determine whether the Application is incomplete and notify the Applicant of the deficiency.

“Performance Deposit Certification” means the form titled “Performance Deposit Certification Form for an Application for an Allocation of Qualified Private Activity Bonds” (revised 1-18-12), which is hereby incorporated by reference.

“Placement Agent Statement” means the statement provided by the firm contracted to market the Bonds proposed in the Application that includes a brief paragraph on the firm’s history and principals, a summary of the firm’s initial underwriting review, an overview of proposed issuance structure including anticipated debt service coverage ratio, and a statement certifying that the proposed transaction has been initially underwritten and meets the firm’s standards for participation.

“Plan of Issuance” means a report due to CDLAC from a county or municipality receiving a U.S. Treasury Designated Recovery Zone Bond Allocation that includes the following: One, a brief description of the Project(s) to be funded utilizing QECBs and/or RZBs, including the proposed qualifying project type, sponsor contact information and anticipated Bond amounts; Two, a copy of the locally approved resolution designating the area in which the proposed Project(s) are located as a Recovery Zone(s); Three, an identification of the local approvals obtained to date; and Four, the anticipated construction start date and timeline for project completion and Bond issuance.

“Project” means the subject property for which an Application for Allocation has been submitted.

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“Project Sponsor” means the entity, or CDLAC authorized affiliate thereof, using the proceeds of a Bond issue to complete the Project described in the Application.

“Project Wage” means the average hourly wage of the jobs created by a Project.

“Public Transit Corridor” means an existing or planned public mass transit guide way or bus way station, or multimodal transportation terminal serving public mass transit operations within one-quarter mile of the Project.

“Qualified Business” means any trade or business as defined under 26 U.S.C. section 1400U-3(c)(2) which exempted “(1) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not a residential rental property as defined in 26 U.S.C. section 168(e)(2); and (2) such term shall not include any trade or business consisting of the operation of any facility described in 26 U.S.C. section 144(c)(6)(B).”

“Qualified Energy Conservation Bond (QECB)” means a qualified tax-credit Bond as defined under 26 U.S.C. section 54D where: “(1) one-hundred (100%) percent of the available project proceeds of such issue are to be used for one or more ‘qualified conservation purposes’ (2) the bond is issued by a State or local government, and (3) the Issuer designates such bonds for purposes pursuant to this section.”

“Qualified Energy Conservation Bond Reallocation Pool” means the reserve of the amount Deemed Waived by the Committee for reallocation for a Qualified Energy Conservation Bond.

“Qualified Institutional Buyer (QIB)” means an entity defined by the United States Securities and Exchange Commission in Rule 144A under the Securities Act of 1933.

“Qualified Private Activity Bond” means a Bond that satisfies the requirements of 26 U.S.C. sections 141 et seq.

“Qualified Recovery Zone Bond Issuer” means eligible Issuers of Recovery Zone Bonds including states, political subdivisions as defined for purposes of U.S. Treasury Regulations, section 103, and entities empowered to issue Bonds on behalf of any such entity under rules similar to those used to determine whether a Bond issued on behalf of a state or political subdivision constitutes an obligation of the state or political subdivision for purposes of U.S. Treasury Regulations, section 103 and subchapter A, 1.103-1(b), or eligible Issuers in conduit financing issues as defined in U.S. Treasury Regulations, subchapter A, 1.150-1(b). An eligible Issuer may issue Recovery Zone Bonds based on a volume cap allocation received by the eligible Issuer itself or by a conduit borrower or other ultimate beneficiary of the issue of the Bonds.

“Qualified Residential Rental Project” means a qualified residential rental project as defined by 26 U.S.C. section 142(d)(1).

“Qualified Residential Rental Project Pool” means the reserve of the State Ceiling established by the Committee for Qualified Residential Rental Projects.

“Qualifying Bond Default” means a Bond Default in which the final disposition resulted in bondholders involuntarily not being paid in whole or in part.

“Recovery Zone” means an area designated by the local issuing entity defined pursuant to 26 U.S.C. section 1400U-1(b) as meeting one of the following criteria:

- Significant poverty, unemployment, rate of home foreclosures or general distress
- Economically distressed because of military base closure or realignment
- An area which has been designated as an empowerment zone or a renewal community

“Recovery Zone Bond (RZB)” means a Bond issued as a Recovery Zone Economic Development Bond or a Recovery Zone Facility Bond.

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“Recovery Zone Economic Development Bonds (RZEDB)” means a type of Build America Bond issued before January 1, 2011 in which the Issuer shall receive a credit from the Treasury Department equal to 45% of the interest payment.

“Recovery Zone Economic Development Bond (RZEDB) Reallocation Pool” means the reserve of the amount Deemed Waived by the Committee for reallocation of Recovery Zone Economic Development Bonds.

“Recovery Zone Facility Bonds (RZFB)” means a category of Bonds created by the American Recovery and Reinvestment Act of 2009 (ARRA) that will be treated as Exempt Facility Bond Project as defined per 26 U.S.C. section 142.

“Recovery Zone Facility Bonds (RZFB) Reallocation Pool” means the reserve of the amount Deemed Waived by the Committee for reallocation of Recovery Zone Facility Bonds.

~~“Redevelopment Project Area” means an urbanized area of a community which is a blighted area as defined in sections 33030-33039 of the California Health and Safety Code, the redevelopment of which is necessary to effectuate the public purposes declared in sections 33000, et seq. of the California Health and Safety Code.~~

“Related Party” means the more stringent of the constructive ownership provisions of 26 U.S.C. section 267 or the following:

- The brothers, sisters, spouse, ancestors, and direct descendants of a person;
- A person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- Two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which stock is held by the same persons or entities for:
  - At least 50% of the total combined voting power of all classes that can vote, or;
  - At least 50% of the total value of shares of all classes of stock of each of the corporations, or;
  - At least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation.
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.
- A grantor and fiduciary of any trust;
- A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- A fiduciary of a trust and a beneficiary of that trust;
- A fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;
- A person or organization and an organization that is tax-exempt under 26 U.S.C. section 501(c)(3) or (4) and that is affiliated with or controlled by that person or the person’s family members, as provided in the first bullet of this section, or by that organization;
- A corporation and a partnership or joint venture if the same persons own more than:
  - 50% in value of the outstanding stock of the corporation; and
  - 50% of the capital interest, or the profits’ interest, in the partnership or joint venture;
- One S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
- An S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;

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- A partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
- Two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

"Report of Action Taken" means a report provided by and due to the Committee not more than three (3) business days following the use of Allocation to issue Bonds or Mortgage Credit Certificates.

"Report of Action Taken for Bonds" means the specific Report of Action Taken due to the Committee following the use of Allocation for Qualified Private Activity Bonds (excluding RZBs or QECBs) titled "Report of Action Taken Regarding the Issuance of Private Activity Bonds" (revised 10-1-11), which is hereby incorporated by reference.

"Report of Action Taken for Bonds (Carryforward)" means the specific Report of Action Taken due to the Committee following the use and/or carryforward of Allocation for Qualified Private Activity Bonds (excluding RZBs or QECBs) titled "Report of Action Taken Regarding the Making of a Carryforward Election and the Issuance of Private Activity Bonds" (revised 10-1-11), which is hereby incorporated by reference.

"Report of Action Taken for MCCs" means the specific Report of Action Taken due to the Committee following the use of Allocation to issue Mortgage Credit Certificates Bonds titled "Report of Action Taken Regarding Mortgage Credit Certificate Program" (revised 1-11-11), which is hereby incorporated by reference.

"Report of Action Taken for MCCs (Carryforward)" means the specific Report of Action Taken due to the Committee following the use and/or Carryforward of Allocation to issue Mortgage Credit Certificates titled "Report of Action Taken Regarding a Carryforward Election and a Mortgage Credit Certificate Program" (revised -11-11), which is hereby incorporated by reference.

"Report of Action Taken for RZBs or QECBs" means the specific Report of Action Taken due to the Committee following the use of Allocation for RZBs or QECBs titled "Report of Action Taken Regarding the Issuance of Recovery Zone Bonds or Qualified Energy Conservation Bonds" (revised 1-11-11), which is hereby incorporated by reference.

"Restricted Rental Units" means tenant occupied units within a Qualified Residential Rental Project that are restricted to households earning 60% or less of the applicable median family income pursuant to a Bond Regulatory Agreement or a CTCAC regulatory agreement for a minimum of thirty (30) years.

"Rural Project" means a Qualified Residential Rental Project located in a rural area as defined by Health and Safety Code section 50199.21 but shall not include a Mixed Income Project.

"Rural Project Pool" means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.

"RZEDB Application" means the Application titled "Application for an Award of American Recovery and Reinvestment Act of 2009 Recovery Zone Economic Development Bonds" (revised 5-5-11), which is hereby incorporated by reference.

"RZFB Application" means the Application titled "Application for an Award of American Recovery and Reinvestment Act of 2009 Recovery Zone Facility Development Bonds" (revised 5-5-11), which is hereby incorporated by reference.

"Single Family Housing Program" means a program satisfying the requirements of 26 U.S.C. section 25 and 26 U.S.C. section 143.

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“Single Family Housing Program Bonus Pool” means a reserve within the Single Family Housing Program Pool that may be established by the Committee.

“Single Family Housing Program Pool” means the reserve of the State Ceiling established by the Committee for Single Family Housing Programs.

“Single Family Housing State Issuer” means any state agency that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs.

“Small Business Program” means a program that meets the requirements for eligibility established and administered by CIDFAC.

“Small-Issue Industrial Development Bond Project” means a Project that meets the requirements for a qualified small-issue Bond as described under 26 U.S.C. section 144.

“Small-Issue Industrial Development Bond Project Pool” means the reservation of the State Ceiling reserved for Small-Issue Industrial Development Bond Projects.

“Sophisticated Investor (SI)”, see Accredited Investor definition.

“Special Designation Area” means a community that the Applicant demonstrates is any one or more of the following: One, a state designated Enterprise Zone pursuant to Government Code section 7073, Manufacturing Enhancement Area pursuant to Government Code section 7073.8 or Targeted Tax Area pursuant to Government Code section 7097; Two, a federally designated Empowerment Zone or Enterprise Community pursuant to 26 U.S.C. section 1391, or Renewal Community pursuant to 26 U.S.C. section 1400E; ~~or Three, a redevelopment project area adopted pursuant to California Health and Safety Code sections 33000 et seq., where the Committee determines that the project area meets the definition of blighted area contained in Health and Safety Code section 33030.~~

“State Ceiling” means the amount of Qualified Private Activity Bonds that can be issued in California for each calendar year specified by 26 U.S.C. section 146(d), and the amount reserved to California pursuant to sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 as established by and announced by the Committee in accordance with article 2 of this chapter.

“State Ceiling Pools” means the individual pools created by the Committee and as defined in this chapter.

“Student Loan Program” means a program that meets the requirements for a qualified student loan Bond under 26 U.S.C. section 144(b).

“Student Loan Program Pool” means the reserve of the State Ceiling established by the Committee for Student Loan Programs.

“Taxable Debt” means conventional financing from a major financial institution or taxable Bonds issued by a municipality including but not limited to Build America Bonds, Recovery Zone Bonds or Qualified Energy Conservation Bonds.

“TEFRA Resolution” means the approval signed by the applicable elected representative of the governmental unit having jurisdiction over the proposed Project as required by the Tax Equity and Fiscal Responsibility Act of 1983, and under 26 U.S.C. section 147(f).

“Travelling Investor Representation Letter” means the certification from initial investor(s) of a Bond offering that they have no present intention of reoffering the Bonds in a subsequent public offering, but may be allow to subsequently transfer the Bonds in a limited offering to another permitted transferee provided the transferee agrees to the same representations.

“U.S. Treasury Designated Recovery Zone Bond Allocation” means Allocation received directly from the federal government pursuant to the American Recovery and Reinvestment Act of 2009.

“Verification of Zoning and Local Approvals” means the document by which the appropriate local government planning official having jurisdiction over the Qualified Residential Rental Project certifies at least the following: the Project’s name, address, parcel number, housing type, the Project’s compliance with all applicable local land use and zoning ordinances, a description of the Project’s current zoning, maximum per unit density allowed for the Project’s site, and whether the Project has obtained all local and state land use related approvals.

“Veterans Home Loan Program” means a single family housing program administered by the California Department of Veterans Affairs, satisfying the requirements of 26 U.S.C. section 143, and that is restricted to California veterans of military service.

“Welfare-to-Work Plan” means a plan as described by sections 10531, et seq. of the California Welfare and Institutions Code.

Note: Authority cited: Section 8869.84, Government Code. Reference: Section 8869.84(c), Government Code.

## **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 as used in this chapter are defined as follows:

“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.

“AMI” or “Area Median Income” 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.

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“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)).

“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 either by the actual purchase price of the land or by an appraisal whichever is lower, 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 thereunder, 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 asides as security for the repayment of tax-exempt private activity Bonds.~~

“Rent Comparability Matrix” means the form by which the third party that has completed the Market Study provides information comparing the Project to comparable properties in the Project’s market area and evidences that each of the Project’s unit types has met the requirements of Section 5191(b).

“Scattered Site Project” means multiple location Projects which are either Federally Assisted At-Risk Projects within the same city or within five (5) miles of each other; or Non-Federally Assisted 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 10-1-11), 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 10-1-11), 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 for 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 10101) 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.

"State of California Universal Application for the Development of Affordable Rental Housing" means the State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool (revised 8-13-10), which is hereby incorporated by reference.

"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, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee 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 10-1-11), 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, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee 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 10-1-11), which is hereby incorporated by reference.

"VOC" means a volatile organic compound.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

#### **Article 4. Market Studies.**

**Section 5200. Minimum Requirements.** The Market Study must meet the current guidelines as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10322 (9).

(a) A full Market Study with a Rent Comparability Matrix for each applicable unit type 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.

(b) The study must establish both need and demand for the proposed Project. If the Market Study does not support sufficient need and demand for the Project, the Application may be considered ineligible to receive an award of Allocation.

(c) 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,

(d) A market study shall be updated when either proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increased by more than 5% or 180 days have passed since the first site inspection date of the subject property and comparable properties. CDLAC shall not accept an updated market study when more than twelve (12) months have passed since the earliest listed site inspection date of either the subject property or any comparable property. In such cases, applicants shall provide a new market study.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

## **Article 8. Evaluation Criteria**

**Section 5230. Evaluation Criteria.** (a) The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Any points awarded in this section shall be rounded to the nearest one-tenth decimal place. Each of the items in this section shall be memorialized in the Committee Resolution.

(b) Federally Assisted At-Risk Projects and HOPE VI Projects (20 points maximum). Projects that are Federally Assisted At Risk Projects or HOPE VI Projects will receive ten (10) points. Projects that are Federally Assisted At Risk Projects or HOPE VI Projects and have income restricted tenant paid rents for each Restricted Rental Unit that is at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties will receive ten (10) additional points.

(c) Exceeding the Minimum Income Restrictions (35 points maximum for Qualified Residential Rental Projects other than Mixed Income Projects, 15 points maximum for Mixed Income Projects). Points will be awarded as set forth below for the percentage of units that are Restricted Rental Units. The Gross Rent definition will apply to the rents calculated in this subdivision.

(1) For each ten percent (10%) increment of units restricted at fifty percent (50%) of AMI or below, Qualified Residential Rental Projects other than Mixed Income Projects will receive seven (7) points, and Mixed Income Projects will receive three (3) points (fractional percentages above the minimum 10% increment will be calculated on a pro rata basis and the total points calculated will be rounded to the nearest whole number).

(2) For each ten percent (10%) increment of units restricted at greater than fifty percent (50%) of AMI, and up to sixty percent (60%) of AMI, Qualified Residential Rental Projects other than Mixed Income Projects will receive two (2) points, and Mixed Income Projects will receive one-half (½) point.

(d) Gross Rents (5 points).

(1) Five (5) points will be awarded to Projects which utilize Gross Rents to define Restricted Rental Units as evidenced by one of the following:

(A) A letter from the local public housing authority that includes a current utility allowance schedule, certifies that the proposed Project is located within its jurisdiction and itemizes which components of the utility allowance schedule applies to the Project. Projects that are subject to a Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program do not require a housing authority certification and may rely solely on the utility allowance included in a HUD rent schedule provided the schedule specifically identifies the name of the Project.

(B) If a Project is to be substantially retrofitted for energy conservation or will be newly constructed with substantial energy conservation, the Applicant may submit revised utility allowances based on the projected reduction in utility costs after construction or retrofit. The revised utility allowances shall be validated by either of the following:

(i) A letter from the public utility or housing authority having jurisdiction over the Project that validates the revised utility allowances based on the proposed use of energy conservation materials, or

(ii) A current utility allowance estimate consistent with 26 CFR section 1.42-10. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission. The CUAC estimate shall be signed by a California Association of Building Energy Consultants Certified Energy Plans Examiner (CEPE) who is also either a California licensed Mechanical or Electrical Engineer, or a certified Home Energy Rating System (HERS) rater. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS regulations. The Applicant must indicate which components of the utility allowance schedule apply to the Project.

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(e) Exceeding the Minimum Rent Restrictions (10 points maximum). One (1) point will be awarded for each percentage point the highest rental rate of each. Restricted Rental Unit type (defined by bedroom count) is more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. The average of all Restricted Rental Unit type percentage points beyond 20% will be used to determine the number of awarded points. All unit types must be more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rental Comparability Matrix to qualify for points under this category. Where sizes (defined by square footage) vary among those units with the highest rent, the smallest of these units shall be the basis for this comparison. Applications receiving points under subdivision (b) of this section shall be ineligible to receive points under this subdivision.

(f) Exceeding the Minimum Term of Restrictions (10 points maximum). If the Committee establishes a Competitive Application Process, Applications that maintain the Qualified Project Period for longer than thirty (30) years will be awarded two (2) points for every five (5) years of affordability beyond thirty (30) years.

(g) Large Family Units (5 points).

(1) Five (5) points will be awarded to those Projects where at least thirty percent (30%) of the Restricted Rental Units are three-bedroom or larger units.

(h) Leveraging (10 points maximum).

(1) Applications that include Public Funds as a permanent funding source are eligible for points.

All Public Funds must be committed by a public entity at the time of Application. Evidence provided shall signify the form of the commitment, the amount of the loan, grant or subsidy, the length of the term of the commitment, conditions of participation, express authorization from the governing body or an official expressly authorized to act on behalf of said governing body, committing the funds, and the Project Sponsor's acceptance. Commitments shall be final and only subject to conditions within the control of the Project Sponsor. Funding commitments shall be from funds within the control of the entity making the commitment at the time of the Application. One (1) point will be awarded for every dollar of Public Funds committed as a percentage of total development costs (minus developer fees) rounded to the nearest whole number.

(2) Applications that include Taxable Debt as a permanent funding source, in addition to tax-exempt Bond financing, are eligible for points based on the degree that the Taxable Debt supplants the use of tax-exempt Bond financing. The requirement for using Taxable Debt will be included in the Committee Resolution. Taxable Debt may only be utilized for project related expenses, not for the cost of issuance, for which the Applicant could otherwise have used tax-exempt financing in order to receive points under this category. One-half (1/2) of a point will be awarded for every dollar of Taxable Debt committed as a percentage of total development costs (minus developer fees) rounded to the nearest whole number.

(i) Community Revitalization Area Criteria (15 points maximum).

(1) Applications with Projects located in a Community Revitalization Area (CRA) will qualify for points provided that the CRA meets one or more Distressed Community characteristics and includes documentation from the municipality, redevelopment authority or any agency responsible for affordable housing with jurisdiction over the Project that substantiates the following:

(A) Confirmation that a plan for revitalizing the subject area has been adopted, the date of adoption and name of the CRA.

(B) Identification of which Distressed Community characteristic(s) is applicable to the CRA. If the applicable characteristic is pursuant to California Health and Safety Code sections 33030 et seq., a description of the blighted conditions that exist in the subject area must be included.

(C) Confirmation that the Project is within the CRA.

(D) A scaled-for-distance map that is legible and clearly shows the boundaries of the CRA and the location of the proposed Project within the area boundaries.

(2) Points will be awarded if the documentation provided pursuant to subdivision (1) substantiates the following activities:

(A) Five (5) points will be awarded where specific and significant on-going programs in conjunction with community partnerships, evidenced by a legally enforceable agreement(s) between two or more wholly separate entities, have been established, are currently operating, and are providing community enhancement services in the neighborhood, including, but not limited to, job training or after-school enrichment programs.

(B) Five (5) points will be awarded where funds, not including the funds for the proposed Project, have been expended in the last three (3) years, are being expended or are committed to be expended to improve the

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community infrastructure, including, but not limited to, parks, storm water and sewer systems or street improvements of the overall area.

(C) Five (5) points will be awarded where other Projects, including, but not limited to, retail, office and housing that contribute to community revitalization have been completed in the last three (3) years, are underway or are committed to be completed.

(j) Site Amenities (10 points maximum)

(1) The Committee will award points to Applications with site amenities as described in this subdivision. Except as specifically set forth in this section, points will be awarded only for those amenities that exist at the time of Application. Applicants requesting points for site amenities that do not currently exist must include a letter from the controlling entity, signed by an authorized individual representing the entity, that states the funds for the amenity are committed, and the amenity is planned. The letter shall also state the anticipated date for the amenity to be placed in service which shall not be more than two (2) years after the date the Project is anticipated to be placed in service.

(2) Points will be awarded provided the site amenities are appropriate for the population served, and a scaled-for-distance map showing the location of the Project and amenities are provided as follows:

(A) Two and one-half (2 ½) points will be awarded to Projects located within one-quarter (¼) mile of a Public Transit Corridor or, for Rural Projects where there is no public transportation system, to Projects using a van or dial-a-ride service.

(B) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a park or recreational facility.

(C) Points will be awarded under 1 of the 2 following categories: i) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile (1 mile for Rural Projects) of a full service grocery store of at least 25,000 gross interior square feet. Or ii) Two and one-half (2 ½) points will be awarded to Projects located within one-fourth (1/4) mile (one-half (½) mile for Rural Projects) of a full service grocery store of at least 5,000 gross interior square feet.

A full service grocery store shall mean for the purpose of this section a store or market that provides at minimum, food staples, fresh meats and/or poultry, dairy products, and produce, as well as other personal and household products and sundries.

(D) ~~Two and one-half (2 ½) points will be awarded to Projects located near a school. located within~~ Points will be awarded for one of the two following categories: one-half (½) mile of a public school (K thru 12th). The site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school that children living in the development may attend (an additional 1/2 mile for each public school type for Rural projects) and that the site is within the attendance area of that school. Projects where all units are restricted to households having members 55 years or older, shall not be eligible for points in this category.

(E) ~~Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a medical facility serving seniors or a senior center.~~ within 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor's office). Only Projects where all units are restricted to households having members 55 years or older (with the exception of caregivers and others who are exempt by state law from the age restrictions), shall be eligible for points in this category.

(F) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a public library.

(G) Two and one-half (2 ½) points will be awarded to Projects which provide high speed internet or wireless "WiFi" service connection in each unit. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of 10 years, free of charge to the tenants, and available at the time of the project's placed-in-service date.

(k) Sustainable Building Methods (10 points maximum).

(1) Points 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) 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 subdivision (k) have been met or exceeded. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under subdivision (k) who fails to meet this requirement will be subject to negative points under subdivision (n) of this section.

(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 California Tax Credit Allocation Committee’s minimum requirements for energy efficient programs, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(A).

(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 under which the project is constructed, shall be awarded as follows:

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

(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:

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

(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:

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

(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 Building Performance Institute 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 under construction or rehabilitation, 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 Application was submitted. 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 evidence as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(F)(5)(i).
    - (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, the building commissioning plan, and provide evidence onsite staff has been certified in green building operations and maintenance as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(F)(5)(ii). Owner certification of ongoing sustainable building management practices will be provided annually in accordance with section 5144 of the CDLAC Regulations.
    - (iii) For sub-metered central hot water systems, the Applicant must demonstrate compliance with the California Public Utilities Commission 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 (8) of this subsection may result in an award of negative points for the Project Sponsor.
- (I) Service Amenities (10 points maximum).
  - (1) Points will be awarded provided the Project Sponsor certifies the following:
    - (A) Service amenities must be appropriate to the tenant population served and committed to for a minimum of ten (10) years. Programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be designed to generate positive changes in the lives of tenants, such as increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.
    - (B) Services must be provided on-site except that Projects may use off-site services within a one-quarter ( $\frac{1}{4}$ ) mile of the Project provided that they have a written agreement with the service provider at the time of Application enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Referral services will not be eligible for points.

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(C) Contracts with service providers, service provider experience, and evidence that physical space will be provided on- or off-site must be documented within the Application. Documentation must be provided for each category of services for which the Applicant is claiming service amenity points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state annual value of the services; commit that services will be provided for a period of at least one (1) year; and name the project to which the services are being committed. Evidenced shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category. All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals may not be substituted for organizational experience.

(D) The Application must propose a combined annual value of at least \$10,000, or \$5,000 for Projects of twenty (20) units or fewer, for those services. ~~This annual value does not apply to high-speed internet service when chosen as a single service amenity.~~ In addition, any donated services must be assigned a dollar value by the provider of those services. Applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the Project's service amenities.

(2) Points will be awarded in this subdivision as follows:

(A) Five (5) points to family Projects with after school programs of an ongoing nature. Programs shall include, but are not limited to: tutoring, mentoring, homework club, art and recreation activities. Programs shall be provided on weekdays throughout the school year for at least 10 hours per week.

(B) Five (5) points to Projects with instructor-led educational classes, health and wellness, or skill building classes, including but not limited to: financial literacy, computer training, home-buyer education, GED, resume building, ESL, nutrition, exercise, health information/awareness, art, parenting, on-site food cultivation and preparation, and smoking cessation. Instruction is to be provided a minimum of 84 hours per year (drop-in computer labs, monitoring or technical assistance shall not qualify).

(C) Five (5) points to Projects with licensed childcare providing 20 hours or more per week (Monday through Friday) to residents of the development.

(D) Five (5) points to Projects with wellness services and programs, such services and programs shall provide individualized support for tenants (not group classes) but need not be provided by licensed individuals or organizations. The services and programs shall include, but are not limited to: visiting nurses programs, intergenerational visiting programs, and senior companion programs. The services and programs shall be provided for a minimum of 100 hours per year.

(E) Five (5) points to Projects with a bona fide service coordinator/social worker available, provided that the experience of the coordinator, the duties of the coordinator and a budget to pay for the coordinator are included in the Application. The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.)

(m) New Construction Projects (10 points). Ten (10) points will be awarded to new construction or adaptive reuse Projects with Restricted Rental Units.

(n) Negative Points (No maximum).

(1) The Committee will deduct points for an Application involving a Project Sponsor that has been or is a Related Party to a Project Sponsor (i.e. in the ownership structure) for which an Allocation has been awarded as follows:

(A) Ten (10) points will be deducted for each failure to fully utilize the committed public subsidies or Taxable Debt for which points were awarded in connection with the prior Allocation, unless it can be demonstrated that the failure was entirely outside of the Project Sponsor's control or the amount not utilized is not material. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(B) Ten (10) points will be deducted for each failure to issue Bonds that results in the full amount of the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which Allocation was awarded.

(C) Ten (10) points will be deducted for each failure to spend the proceeds of Bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated that the failure was entirely outside of the Project Sponsor's control, the amount not spent is not

material, or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will be assessed against the Project Sponsor for a period of three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

(D) Ten (10) points will be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated that the failure was entirely outside of the Project Sponsor's control. This deduction will be assessed for a period of three (3) calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.

(2) Multiple or repeated failures of subdivision (n)(1) of this section may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

## **Chapter 10. Qualified Energy Conservation Bond Program**

### **Article 3. Evaluation Criteria**

**Section 5580. Evaluation Criteria.** Upon a determination that an Application has met the minimum requirements set forth in article 2 of this chapter, Applications will be evaluated with the following criteria. All estimates of Project performance as it relates to points must be supported by documentation from a qualified third party or a qualified "in-house" professional.

(a) Capital Expenditures Pool

(1) Qualified Facilities (Private Activity Use and Governmental Use) (10 point maximum).

Qualified Facility Projects must be in compliance with the renewable portfolio standard eligibility requirements of the California Energy Commission.

(A) Ten (10) points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the highest amount of kilowatt hours of electricity. (First place)

(B) Five (5) points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the second highest amount of kilowatt hours of electricity. (Second place)

(C) Two (2) points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the third highest amount of kilowatt hours of electricity. (Third place)

(D) No points will be awarded to the Project that produces the lowest amount of kilowatt hours of electricity.

(E) Qualified Facility Projects that include Energy Efficient Publicly Owned Buildings may apply for bonus points as provided in subdivision (a)(4) of this section.

(2) Energy Consumption Reduction and Pollution Reduction of Mass Commuting Facilities and Related Facilities (Private Activity Use and Governmental Use) (12 point maximum).

(A) Twelve (12) points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the lowest amount of energy consumption and/or highest amount of pollution reduction. (First place)

(B) Eight (8) points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the second lowest amount of energy consumption and/or second highest amount of pollution reduction. (Second place)

(C) Four (4) points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the third lowest amount of energy consumption and/or third highest amount of pollution reduction. (Third place)

(D) No points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in a highest energy consumption and/or lowest pollution production.

(E) Mass Community Facility and/or Related Facility Projects that include Energy Efficient Publicly Owned Buildings may apply for bonus points as provided in subdivision (a)(4) of this section.

(3) Rural Development Electricity from Renewable Resources (Private Activity Use and Governmental Use) (12 point maximum).

(A) Twelve (12) points will be awarded to the rural Project that will produce the highest amount of kilowatt hours of electricity from renewable resources. (First place)

(B) Eight (8) points will be awarded to the Project that will produce the second highest amount of kilowatt hours of electricity from renewable resources. (Second place)

(C) Four (4) points will be awarded to the Project that will produce the third highest amount of kilowatt hours of electricity from renewable resources. (Third place)

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- (D) No points will be awarded to the Project that produces the lowest amount of kilowatt hours of electricity.
- (E) Elective: Two (2) additional points will be awarded to a rural Project that delivers electricity to a population of 10,000 (or more) that are not on the electricity grid at the time of Application.
- (F) Projects that include Energy Efficient Publicly Owned Buildings may apply for additional bonus points as provided in subdivision (a)(4) of this section.
- (4) Energy Efficient Publicly Owned Buildings (Governmental Use Only) (10 point maximum). One (1) point will be awarded to Projects for every percentage point beyond the minimum required (20%) that energy consumption is reduced in a publicly owned building. This information must be certified by a licensed mechanical engineer or architect.

(b) Energy Program Pool.

(1) Effectiveness of Research Investments (10 point maximum)

(A) Ten (10) points will be awarded to the research that will result in technology with the lowest Carbon Footprint in terms of greenhouse gas emissions. (First place)

(B) Five (5) points will be awarded to the research that will result in technology with the second lowest Carbon Footprint. (Second place)

(C) Two (2) points will be awarded to the research that will result in technology with the third lowest Carbon Footprint. (Third place)

(D) No points will be awarded to the research that will result in technology with the highest Carbon Footprint.

(2) Demonstration Projects (10 point maximum).

The criteria used to evaluate the approach of the Demonstration Project will include, but will not be limited to the following: the size, experience and capacity of the demonstration client base, the verification of the practicality and marketability of the demonstrated technology by a third party, and the overall degree of environmental benefit of the demonstrated technology. Overall degree of environmental benefit of the technology will be measured by reductions in energy consumption measured in kWh saved and/or the amount of greenhouse gas emissions measured in MMTCO<sub>2</sub>e (million metric tons of CO<sub>2</sub> equivalent). Applicants will be required to document their previous success with the introduction, marketing and production of a new technology.

(A) Ten (10) points will be awarded to the Demonstration Project that has the most comprehensive and impactful approach to the commercialization of green technologies. (First place)

(B) Five (5) points will be awarded to the Demonstration Project that has the second most comprehensive and impactful approach to the commercialization of green technologies. (Second place)

(C) Two (2) points will be awarded to the Demonstration Project that has the third most comprehensive and impactful approach to the commercialization of green technologies. (Third place)

(D) No points will be awarded to the Demonstration Project that has the least comprehensive and impactful approach to the commercialization of green technologies.

(3) Public Education Campaign (10 point maximum)

The following criteria will be used to evaluate a Campaign's approach: number and size of target groups willing to host or facilitate public education activities (authenticated by target groups); potential diffusion of potential public education activities in the energy community; dollars of allocation per activity.

(A) Ten (10) points will be awarded to the Public Education Campaign with the most comprehensive approach to increasing public awareness of energy efficient technologies or energy conservation funding sources. (First place)

(B) Five (5) points will be awarded to the Public Education Campaign with the second most comprehensive approach to increasing public awareness of energy efficient technologies or energy conservation funding sources. (Second place)

(C) Two (2) points will be awarded to the Public Education Campaign with the third most comprehensive approach to increasing public awareness of energy efficient technologies or energy conservation funding sources. (Third place)

(D) No points will be awarded to Public Education Campaign with the least comprehensive approach to increasing public awareness of energy efficient technologies or energy conservation funding sources.

(4) Loan / Grant Program Pool (10 point maximum).

(A) Two (2) points will be awarded for every loan that will be funded per \$10,000 of allocation used. One (1) point will be awarded for every grant that will be funded per \$10,000 of allocation used.

(B) Loans and grants can be used for capital expenditures associated with implementing green community programs, research grants for promoting green technologies demonstration Projects and public education campaigns.

(C) Applicants will be asked to provide the following information: description of what is being funded with the loans and/or grants; capacity of the funding (i.e. the number and size of the loans and/or grants); loan criteria and award process; compliance measures that will be imposed on recipients of loans and/or grants.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

## **Chapter 5. Small-Issue Industrial Development Bond Program.**

### **Article 3. Evaluation Criteria**

**Section 5370. Evaluation Criteria.** (a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the California Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Small-Issue Industrial Development Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located will be averaged, divided by the statewide poverty rate and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Three (3) points to a Project located in an area in which the poverty rate is over one-hundred ten percent (110%) but not more than one-hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum). Points will be awarded provided the following is demonstrated:

(A) Evidence that the Project is located in a Special Designation Area. ~~For redevelopment Projects, a description of blight conditions that exist in the subject area is required.~~

(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.

(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas may be used.

(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.

(b) Jobs Creation and Retention (45 points maximum). Applications will be awarded points for Projects that create and/or retain jobs according to the following:

(1) Job Creation (35 points maximum). Applications will be eligible for Job Creation points when full-time new jobs have been created pursuant to the Job Retention definition provided in section 5350. Based on the Project Sponsor's representation that they will make their best efforts to increase the number of direct, full-time employees at the Project site within two (2) years of Project completion, points will be awarded as follows:

(A) Twenty-five (35) points to Projects creating a 31% or more increase in the manufacturer's workforce.

(B) Fifteen (20) points to Projects creating a 21% to 30% increase in the manufacturer's workforce.

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- (C) Ten (10) points to Projects creating a 10% to 20% increase in the manufacturer's workforce.
- (2) Job Retention (10 points maximum). Applications will be eligible for Job Retention points when jobs have been retained pursuant to the Job Creation definition as provided in section 5000. To qualify for Job Retention points, the jobs retained must be those that would be lost in the absence of the requested Allocation. Points will be awarded provided the following:
- (A) Certification that the Project Sponsor will retain the specified jobs for a two (2) year period after the issuance of Bonds. The Committee may verify jobs retained at any time during the two (2) year period, or
- (B) A verification letter from the appropriate local governmental entity stating that the Project Sponsor's business is at risk of closing local operations, and that the requested Allocation and retention of the Project Sponsor's business is an integral part of its plan to maintain the health of the local economy and retain employment, or
- (C) Written evidence from the Project Sponsor that the company within two (2) years prior to the submission of an Application for tax-exempt IDB financing, engaged a site selector to find possible relocation sites.
- (c) Workforce and Economic Development (15 points maximum)
- (1) Welfare-to-Work (5 points maximum). Points will be awarded where the Project Sponsor proposes or is participating in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or that participation is occurring that includes, at minimum, the manner and extent of the participation.
- (2) Workforce Training (5 points maximum). To qualify for points in this category, the Project Sponsor must provide copies of official documentation of its current or pending participation. Such documentation shall include copy of an executed contract between the Project Sponsor and the provider; or a formal letter from the provider addressed to the Project Sponsor acknowledging the Project Sponsor's current or pending participation in the program. Points will be awarded where the Project Sponsor participates in one or more training, retraining or apprenticeship programs offered by any of the following state agencies, certified training facilities or postsecondary institutions:
- (A) The California Employment Training Panel;
- (B) The California Department of Industrial Relations;
- (C) A community college;
- (D) University;
- (E) Adult school; or
- (F) A regional occupational program or private training agency approved by the California Bureau of Private Postsecondary and Vocational Education.
- (3) Exports Outside of California (5 points maximum). To qualify for points in this category, an officer or owner of the Project Sponsor must certify in writing on Project Sponsor letterhead that it exports, or in the case of the construction of a new manufacturing facility at a new Project site, anticipates that it will export as part of its business plan as follows:
- (A) In excess of 30% of products manufactured at the Project site (5 points);
- (B) Over 20% and up to 30% of its products manufactured at the Project site (3 points);
- (C) Up to 20% of its products manufactured at the Project site (2 points);
- (d) Payment of Employee and Dependent Medical, Dental, Vision and Retirement Costs (20 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:
- (1) Health, Dental and Vision (15 points maximum).
- (A) Fifteen (15) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$330 or more per month toward the cost of the medical, dental, or vision for each participating employee of the Project.
- (B) Ten (10) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$220 or more, but less than \$330, per month toward the cost of the medical, dental, or vision benefits for each participating employee of the Project
- (C) Five (5) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$110, but less than \$220, per month toward the cost of the medical, dental, or vision benefits for each participating employee of the Project.

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- (2) Retirement Plans (5 points maximum). To qualify for points in this category, the Project Sponsor must provide specific documentation to show it contributes to a Qualified Retirement Plan or other retirement account for each participating employee and must confirm that it will offer such benefits to employees hired in accordance with the representations made pursuant to the Job Creation definition as provided in section 5000.
- (e) Average Hourly Wage (10 points maximum). Applications will be awarded points based on a comparison of the Project Wage to the most recent Job Wage. The Project Wage will be divided by the Job Wage and multiplied by one-hundred (100). Points will be awarded as:
- (1) Ten (10) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage.
- (2) Six (6) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage.
- (3) Three (3) points for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.
- (f) Environmental Stewardship (27 points maximum).
- (1) Land Use (3 points maximum). Points will be awarded to Projects that involve the reuse of the following:
- (A) Vacant or abandoned buildings; or
- (B) Vacant or abandoned land with developed infrastructure, excluding land where the immediate prior use was agricultural, open space or other similar use.
- (2) Public Transportation (4 points maximum).
- (A) In areas where there is no public transportation system, three (3) points will be awarded to Applications where the Project Sponsor has an adopted transportation system management plan, or;
- (B) Four (4) points will be awarded to Projects that are located within one-quarter ( $\frac{1}{4}$ ) of a mile of a regular route stop within a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter ( $\frac{1}{4}$ ) mile radius of a Public Transportation Corridor and where the Project Sponsor provides written evidence of offering public transit subsidies for employees at the Project site.
- (3) Energy Efficiency/ Renewable Energy (10 points maximum).
- (A) Five (5) points will be awarded to Projects that utilize designs, materials or techniques to reduce energy usage by at least fifteen (15%) on the part of the Project Sponsor compared to the following benchmarks:
- (i) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; or
- (ii) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Project Sponsor. Evidence should include a utility company letter indicating that energy savings are Projected or a written certification from an energy efficiency consultant.
- (B) Five (5) points will be awarded to Projects that involve the installation and use of Renewable Energy equipment to power the production process. The Project Sponsor must provide written documentation from its utility company which specifies the installation or planned installation of Renewable Energy equipment.
- (4) Manufacturer of Certified Environmentally Preferable Products (5 points maximum). Points will be awarded to Projects which produce or will produce environmentally friendly products certified by an ANSI accredited standards developing organization (e.g., Green Seal, Inc.) or by a widely-recognized and reputable organization accredited as a certifier by an ANSI accredited standards developing organization or by a Forest Stewardship Council (e.g., Scientific Certification Systems, Inc.). The Project Sponsor must provide the current, official documentation of the certification and must provide the percentage of the overall output that is comprised of the certified products.
- (5) U.S. Green Building Council (USGBC) LEED-Certified Manufacturing Facility (5 points maximum). Points will be awarded to Projects for which Bond proceeds will be used to construct U.S. Green Building Council (USGBC) LEED-certified facilities, or to make improvements to existing facilities that will qualify it for a LEED certificate. The Project Sponsor must provide either:
- (A) Official documentation of its registration (including evidence of payment of the registration fee) with the USGBC to obtain LEED certification in cases where the Project involves the construction of a new facility and construction has not begun or is not complete at the time of Application; or
- (B) Official documentation of receipt of a Silver, Gold or Platinum LEED Certification in cases where construction or improvements and the certification process are completed.
- (g) Leverage (5 points maximum). Points will be awarded to Projects for which Taxable Debt, a taxable loan, and/or private funds or equity will supplement the use of the tax-exempt Bond financing. The Project Sponsor must provide overall Project costs and certify that one or more of these other sources of financing will be used for Projects expenses with points awarded for achieving the following levels:

- (1) Five (5) points for Projects where greater than twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.
- (2) Three (3) points for Projects where greater than ten percent (10%) and up to twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.
- (h) Ranking Applications. Where two or more Applications are awarded the same number of points pursuant to this section, the Executive Director will divide the Allocation amount requested by each such Application by the number of jobs created by the related Project, and will rank the Applications based on the lowest amount of requested Allocation per job(s) created.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

## **Chapter 8. Recovery Zone Economic Development Bond (RZEDB) Program**

### **Article 3. Specific Evaluation Criteria**

**Section 5500. Evaluation Criteria.** CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the Applicant.

(a) Community Economic Need (30 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Economic Development Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (10 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located, will be averaged, divided by the statewide poverty rate and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Five (5) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum). Excluding the Recovery Zone designation, points will be awarded provided the following is demonstrated:

(A) Evidence that the Project is located in a Special Designation Area. ~~For redevelopment Projects, a description of blight conditions that exist in the subject area is required.~~

(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.

(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as a census tract or tracts, smaller areas will be used.

(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets intent of the point category for which such information has been submitted.

(b) Job Creation (15 points maximum).

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(1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation requested in the Application will be divided by the amount of Job Creation as proposed by the Recovery Zone Economic Development Bond Project. Points will be awarded as follows:

(A) Fifteen (15) points to Projects creating or retaining one (1) job per \$35,000 or less of Allocation.

(B) Ten (10) points to Projects creating or retaining one (1) job per \$35,001 to \$50,000 of Allocation.

(C) Five (5) points to Projects creating or retaining one (1) job per \$50,001 to \$75,000 of Allocation.

(c) Welfare-to-Work Plan (5 points maximum). Points will be awarded where the Applicant proposes or is participating in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.

(d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum).

Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:

(1) Five (5) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.

(2) Three (3) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.

(3) One (1) point will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.

(e) Average Hourly Wage (5 points maximum). Applications will be awarded points based on a comparison of the Project Wage to the most recent Job Wage. The Project Wage will be divided by the Job Wage and multiplied by one-hundred (100). Points will be awarded as follows:

(1) Five (5) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage.

(2) Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage.

(3) One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.

(f) Land Use/Energy Efficiency (25 points maximum).

(1) Six (6) points will be awarded to Projects that reuse the following:

(A) Vacant or abandoned buildings; or

(B) Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space or other similar use).

(2) Seven (7) points will be awarded to Applications with Projects located within one-quarter ( $\frac{1}{4}$ ) mile of a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter ( $\frac{1}{4}$ ) mile radius of a Public Transportation Corridor. In areas where there is no public transportation system, seven (7) points will be awarded to Applications where the Applicant has an adopted transportation system management plan evidenced by a scaled-for distance map showing the location of the Project is within a one-quarter ( $\frac{1}{4}$ ) mile radius of the planned Public Transportation Corridor.

(3) Twelve (12) points will be awarded to Projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the Project's total usage through Renewable Energy sources. Reduced energy usage shall be compared to the following benchmarks:

(A) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; and

(B) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Applicant. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.

(g) Leverage (15 points maximum). Applications will be awarded points where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the Project will include Taxable Debt such that it will supplant the use of tax-exempt Bond financing. In addition, the Committee will award points to Applicants that include funds from a direct QECB Allocation or from the QECB Reallocation Pool for the Project. To receive points for utilizing QECBs, the Qualified Recovery Zone Bond Issuer must provide documentation that they have received a direct allocation award from the county or municipality evidenced by a letter or they must be concurrently applying for the CDLAC QECB Reallocation Pool.

(1) Ten (10) points for Projects utilizing Taxable Debt or direct RZEDB Allocation greater than twenty percent (20%) of total Project costs.

(2) Five (5) points for Projects utilizing Taxable Debt or direct RZEDB Allocation greater than ten percent (10%) and up to twenty percent (20%) of total Project costs.

(3) Three (3) points for Projects utilizing Taxable Debt or direct RZEDB Allocation up to ten percent (10%) of total Project costs.

(4) Five (5) bonus points for Projects utilizing Qualified Energy Conservation Bonds in their Project.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

## **Chapter 9. Recovery Zone Facility Bond (RZFB) Program**

### **Article 3. Specific Evaluation Criteria.**

**Section 5540. Evaluation Criteria.** CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the Applicant.

(a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Facility Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located, will be averaged, divided by the statewide poverty rate and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Three (3) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum). Excluding the Recovery Zone Area designation, points will be awarded provided the following is demonstrated:

(A) Evidence that the Project is located in a Special Designation Area. ~~For redevelopment Projects, a description of blight conditions that exist in the subject area is required.~~

(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.

(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)

(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the

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aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.

(b) Job Creation (25 points maximum).

(1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation requested in the Application will be divided by the amount of Job Created proposed by the Recovery Zone Facility Bond Project and verified by the appropriate city or county official. Points will be awarded as follows:

(A) Twenty-five (25) points to Projects creating one (1) job per \$35,000 or less of Allocation.

(B) Fifteen (15) points to Projects creating one (1) job per \$35,001 to \$50,000 of Allocation.

(C) Five (5) points to Projects creating one (1) job per \$50,001 to \$75,000 of Allocation.

(c) Welfare-to-Work Plan (5 points maximum). Points will be awarded where the Qualified Business proposes or is participating in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.

(d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:

(1) Five (5) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.

(2) Three (3) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.

(3) One (1) point will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.

(e) Average Hourly Wage (5 points maximum). Applications will be awarded up to five (5) points based on a comparison of the Project Wage to the Job Wage. The Project Wage will be divided by the Job Wage and multiplied by (100). Points will be awarded as follows:

(1) Five (5) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage;

(2) Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage;

(3) One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.

(f) Land Use/Energy Efficiency (20 points maximum)

(1) Six (6) points will be awarded to Projects that reuse the following:

(A) Vacant or abandoned buildings; or

(B) Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space, or other similar use).

(2) Seven (7) points will be awarded to Applications with Projects located within one-quarter ( $\frac{1}{4}$ ) mile of a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter ( $\frac{1}{4}$ ) mile radius of a Public Transportation Corridor. In areas where there is no public transportation system, seven (7) points will be awarded to Applications where the Applicant has an adopted transportation system management plan.

(3) Seven (7) points will be awarded to Projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the Project's total usage through renewable energy sources. Reduced energy usage shall be compared to the following benchmarks:

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- (A) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Non-Residential Buildings; and
- (B) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Qualified Business. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.
- (g) Leverage (15 points maximum). Applications will be awarded where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the Project will include Taxable Debt such that it will supplant the use of tax-exempt Bond financing. In addition, the Committee will award points to Applicants that include funds from a direct QECB Allocation or from the QECB Reallocation Pool for the Project. To receive points for utilizing QECBs, the Qualified Recovery Zone Bond Issuer must provide documentation that they have received a direct allocation award from the county or municipality evidenced by a letter or they must be concurrently applying for the CDLAC QECB Reallocation Pool.
- (1) Ten (10) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt greater than twenty percent (20%) of total Project costs.
- (2) Five (5) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt greater than ten percent (10%) and up to twenty percent (20%) of total Project costs.
- (3) Three (3) point for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt of up to ten percent (10%) of total Project costs.
- (4) Five (5) bonus points for Projects utilizing Qualified Energy Conservation Bonds in their Project.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

## Annual Applicant Public Benefits and Ongoing Compliance Self-Certification

**ACKNOWLEDGMENT:** The California Debt Limit Allocation Committee (“CDLAC” or “Committee”) does not expect to hold an Applicant (Issuer) responsible for conditions they are not aware of; only for the Applicant to confirm their understanding of the status of the project/program based upon their own post-issuance compliance procedures. CDLAC will not review the Applicant’s procedures, and in good faith, will assume that the Applicant has in-place procedures they judge to adequately satisfy their post-issuance responsibilities as defined under the Internal Revenue Code and CDLAC Regulations. An Applicant is free to request project information from the Project Sponsor and rely on that information if they believe it satisfies their own compliance procedures and responsibilities. That information can then serve as the basis for the Applicant’s response to the questions within this certification.

**INSTRUCTIONS:** Per the CDLAC Regulations, all Projects/Programs within an existing bond regulatory period and/or CDLAC compliance period shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). Mortgage Credit Certificate Single Family Housing Programs with outstanding authority shall be monitored for the same requirements. The Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification provided on the CDLAC website; certifying whether or not the Project/Program meets the terms and conditions of the Committee Resolution. The self-certification must be submitted by the Applicant to CDLAC no later than March 1 of each year (or at such other time as defined in the CDLAC Regulations or requested by the Committee).

### **ALL APPLICANTS: Applicant/Issuer Certification of Delivery of Public Benefits**

**Applicant/Issuer Name:**

**Project Name (N/A for Single Family Housing Programs):**

**Program Name (Single Family Housing Programs Only):**

**Application Number (s):**

**Resolution Number(s):**

**Property address (N/A for Single Family Housing Programs):**

**Project Completion Date *(if the depreciable assets and/or project have not yet been placed in operation, please only respond to question 1 and mark “N/A” for all other questions)* (N/A for Single Family Housing Programs):**

**ATTENTION SINGLE FAMILY HOUSING APPLICANTS: Please proceed to Section D and complete the specific Single Family Housing Program section of this self-certification.**

### **SECTION A:**

1. To the best of your knowledge, have there been any changes to the ownership entity, principles or property management of the project since the bonds were issued, or since the last certification was provided?

## Annual Applicant Public Benefits and Ongoing Compliance Self-Certification

*(If so, please attach a request to revise the resolution noting all pertinent information regarding the change)*

2. To the best of your knowledge, has there been a change of use for the project?
3. To the best of your knowledge, has the project satisfied all of the requirements memorialized in the Exhibit A of the Committee Resolution (i.e. qualifying project completion, qualifying depreciable asset purchase, qualifying loan originations, the use of public funds, QRRP manager units, QRRP income rent restrictions, QRRP sustainable building methods, etc.; as applicable), and thus achieving all public benefit requirements (excluding QRRP service amenities) as presented to the Committee? *(If there is more than one resolution for this project the most recent resolution will supersede all previous resolutions)*
  - a) As Issuer for the subject project, were you able to confirm to the satisfaction of your current requirements that the defined public benefits were conveyed at the completion of the purchase of the depreciable assets and/or development of the subject project?
  - b) If the public benefits have been confirmed, what evidence to the satisfaction of your current requirements was received (i.e. invoices, contracts, agreements, rent rolls, on-site audits, etc.)?
  - c) When was the evidence provided to the Issuer, or a site visit completed, to confirm the public benefits?
  - d) If all of your compliance requirements were not met, what corrective action was taken to bring the project into compliance? Is the project currently in compliance?

### **SECTION B:**

#### **QRRP APPLICANTS ONLY: Applicant/Issuer Certification of Ongoing Compliance**





# Annual Applicant Public Benefits and Ongoing Compliance Self-Certification

3. If the MCC authority/bond proceeds balance for this allocation award exceeds \$1 million, please provide the balance of the amount remaining along with an explanation of the planned use of the authority/proceeds (i.e. rate of issuance, existing pipeline loans, etc.).

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Officer

\_\_\_\_\_  
Title of Officer

\_\_\_\_\_  
Phone number