

California Debt Limit Allocation Committee

Jesse Unruh Building
915 Capitol Mall, Room 587
Sacramento, CA 95814

January 20, 2016
Meeting Minutes

OPEN SESSION

1. Call to Order and Roll Call

Alan Gordon, Chairperson, called the California Debt Limit Allocation Committee (CDLAC) meeting to order at 11:04 am

Members Present: Alan Gordon for John Chiang, State Treasurer
Eraina Ortega for Edmund G. Brown, Jr., Governor
Alan LoFaso for Betty T. Yee, State Controller

Advisory Members Present: Tony Sertich for the California Housing Finance Agency (CalHFA)
Susan Riggs for the Department of Housing and Community Development (HCD)

2. Approval of the Minutes of the December 16, 2015 Meeting (Action Item)

Alan LoFaso moved approval of the minutes for the December 16, 2015 meeting. Upon a second by Eraina Ortega, the minutes passed 3-0 with the following votes: Alan LoFaso: Aye; Eraina Ortega: Aye; Alan Gordon: Aye.

3. Executive Director's Report (Informational Item)

Ms. Glasser-Hedrick reported that she wanted to provide an overview of CDLAC's Program Activity in 2015.

- CDLAC received \$3.8 billion in allocation and allocated approximately \$4.6 billion in 2015. When compared to 2014 figures of \$1.9 billion in allocated resources, the 2015 figures represent a 242% increase year over year.
- With regard to multifamily units, CDLAC participated in the financing of over 14,049 units up from 9,763 units in 2014; an increase of 144%.
- With regard to single family units, CDLAC has through its Mortgage Credit Certificate (MCC) and Mortgage Revenue Bonds (MRB) programs helped to assist 8,456 first time homebuyers; this is up from assisting 1,374 first time homebuyers in 2014 resulting in an increase of 615%

Ms. Glasser-Hedrick stated that in an attempt to be responsive to the Board's direction received at the December 2015 Allocation Meeting, she had prepared a number of options that the Committee could pursue to address Issuer non-compliance. That item, (#11), has been removed

from the agenda since it has already been acknowledged that a large percentage of Issuer non-compliance is among those Issuers who are no longer active in the program and, as a result, any form of disqualification would not be helpful in soliciting compliance.

Additionally, since the last Allocation Meeting, Ms. Glasser-Hedrick has been reaching out to all the active but non-compliant Issuers, as well as some compliant Issuers, to understand why they have not been reporting and what are some of their struggles and or successes with CDLAC's current reporting protocol. She has received a lot of positive feedback to date and has come to the conclusion that in order to feel comfortable recommending sanctions for non-compliant Issuers, CDLAC needs to:

- 1) better understand why non-compliance is occurring (apathy or structural),
- 2) better understand the process utilized by Issuers to ensure compliance, and
- 3) prioritize matters of Issuer non-compliance internally

Ms. Glasser-Hedrick would like the opportunity to implement the on-line Compliance Monitoring System and work through any associated issues (which there will be and are with all new computer systems) as well as reach out to all non-compliant Issuers to understand their unique circumstances and to become engaged in what steps are necessary to ensure compliance.

Ms. Glasser-Hedrick proposed that she would like to report back to the Committee this summer to provide an update on the status of the compliance monitoring system, the statistics of Issuer non-compliance, and to propose options to address non-compliance. This timeframe will allow any necessary regulation changes to be made so that the changes could be in place for the 2017 reporting cycle.

4. Consideration and Approval of Proposed Emergency/Permanent CDLAC Regulations for Submittal to the Office of Administrative Law (OAL) (Action Item)

Brian Clark reported that the CDLAC regulations being proposed revised the definition of the CDLAC applicant, updated all references to compliance reporting to reflect the soon to be released on-line system, facilitated the CDLAC disqualification of non-compliant Issuers, and provided additional clarity and administrative cleanup where necessary. The proposed revisions will:

- prevent Joint Power Authorities (JPA's) from issuing Private Activity Bonds for projects located outside the boundaries of its members [Section 5000];
- replace the requirement that TEFRA Resolutions be signed by an applicable elected representative with a certification that may be executed by a designee [Section 5033(b)(5)(B)];
- require submission of proof of public notice of TEFRA hearings [Section 5033 (b)(5)(A)];
- establish uniform TEFRA resolution submission deadlines [Section 5033(b)(5)(C)&(D)];
- clarify criteria for Mortgage Credit Certificate (MCC) performance deposit forfeitures and refunds [5052(b)];
- effectuate the online administration of the Compliance Certification process [Section 5000, 5144, 5205(c), 5220];
- require Qualified Residential Rental Program (QRRP) allocation recipients to execute a regulatory agreement as a condition of receiving an allocation [Section 5220(c)];
- add Project Issuers to the list of entities whose actions and/or omissions may form the basis of disqualification for QRRP allocation eligibility [Section 5211]; and

- require Project Sponsors to apply for and accept project-based rental assistance or operating subsidy renewals where a project is receiving such assistance or subsidy [Section 5220 (d)].

Mr. Clark stated that should the Committee approve these revisions, staff would conduct both a 5-day pre-notice and a 5-day public comment period to provide all interested parties with the opportunity to review and respond to the proposed regulations. A 5-day public comment period would commence on the day of submittal, with possible enactment of the regulations within ten (10) days thereafter. All consequential comments will be considered by staff and may result in re-evaluation of the proposed regulations. Should this occur, staff would provide updated proposed regulations to the Committee. If this additional step were required, any Committee update would need to be handled by a special meeting if there were a desire to approve the regulations in advance of March 1, 2016. If approved as scheduled, the Emergency Regulations would be in-place in time for the **March 1, 2016** Compliance reporting deadline as well as the **March 16, 2016** Application Round and the Permanent Regulations would be in place in time for the **September 21, 2016** Application Round.

Alan LoFaso thanked Mr. Clark for his clear recitation on the regulations process. Mr. LoFaso stated that he and his office appreciated the additional public comment hearing period. Mr. LoFaso asked whether further opportunity for this Committee to act on the permanent regulations was optional at the behest of staff or whether it would occur necessarily as a result of a subsequent adoption of the permanent regulations.

Mr. Clark replied that staff would come back before the Committee if staff received public comment that necessitated a revision to the regulations prior to submitting the certification of compliance to make the emergency regulations permanent.

Mr. LoFaso asked if staff thought only the compliance process warranted bringing the regulations back before the Board. Coming to this meeting, he thought that if there were a more robust discussion regarding the Joint Powers of Authority (JPA) issue that that might result in the matter coming back before the Committee.

Brian Clark replied that staff received one (1) public comment during the 30-day pre-Office of Administrative Law (OAL) comment period and that letter was added to the revised staff report. If staff received additional comment on that or any other issue that staff felt was a good idea or it should be changed, staff would bring it before the Committee for additional consideration and approval.

Mr. LoFaso then asked if there were strong public interest in change that staff did not feel was a good idea, would staff then bring the matter back before the Committee.

Alan Gordon responded to Mr. LoFaso's inquiry by assuring him that if any particularly controversial public comment were received, on this or any matter, he would commit that it would be brought before the Committee.

Mr. LoFaso thanked Mr. Gordon.

Mr. Gordon asked if there was any public comment.

Mike LaPierre, Program Administrator for the California Public Finance Authority (CalPFA), thanked the CDLAC staff for looking at ways to continuously improve the process and

procedures by which it operates. The majority of what staff had proposed today were exceptional and would certainly help the industry.

The one comment Mr. LaPierre wanted to make related to the change in the JPA definition. He felt it was clear in conversations with the CDLAC staff that the proposed change related to the recent establishment of the CalPFA JPA that was created by Kings County in May 2015.

Alan Gordon stated that that was the impetus that caused the Committee to look at the JPA issue, but it was not strictly with regard to the CalPFA. The Committee has had the same issue with regard to several other JPAs as well.

Mr. LaPierre thanked Mr. Gordon.

Mr. LaPierre stated that within the body of the communication as relates to why the change is necessary, the CDLAC sites the following three (3) concerns:

- 1) JPAs that finance projects outside of their members' boundaries "may violate the Joint Exercise of Powers Act" yet it is clear that the JPA Act requires projects only to be located within a member's boundaries if the project is a "public capital improvement" as defined in the JPA Act, and if none of the exceptions in the JPA Act apply. These exceptions are regularly used by some JPAs (e.g. Southern California Public Power Authority) to finance projects far outside of the boundaries of any member, including outside of the State of California in some cases.

The CalPFA is planning to finance low-income multifamily housing projects, which are much needed throughout the state and which are not considered "public capital improvements", and the financing of which is specifically authorized in the JPA Act without any requirements that projects be located within members' boundaries.

Within weeks of the creation of the CalPFA, its staff came and met with Ms. Glasser-Hedrick and the CDLAC staff to explain who they were, how this JPA would work, how it was created and to note its ability to go out and finance projects outside its member boundaries. Within a month, the CalPFA was asked to provide an additional description as to why the CalPFA felt that it could do this. The CalPFA turned to its legal counsel which is a nationally recognized bond firm. Legal counsel provided a memo at which time the CalPFA understood that both the State Attorney General's Office and counsel to the State Treasurer's Office would consider the legal memo commissioned by the CalPFA. It was Mr. LaPierre's understanding that this meeting took place. The CalPFA staff never heard anything back on this matter, and they were asked to provide an additional memo which its bond counsel did elaborate on, in the form of a 6-page legal brief, for which counsel concluded that they would be willing to render a non-qualified opinion if the CalPFA were to issue multifamily housing bonds for projects outside of its member jurisdiction. The CalPFA has never heard anything back to the contrary based on its legal memo. They have never heard the conclusion of their legal memo.

- 2) Another concern expressed by the CDLAC was that "this practice may create a competitive disadvantage". It is worth recognizing that every JPA would be able to establish a similar type JPA structure, so how are any of them subject to a competitive disadvantage? To the contrary, since the other major financing JPAs have hundreds of members, and state conduit authorities can finance the same types of projects with no members, the action proposed by the CDLAC would result in a competitive disadvantage

to the CalPFA, and only because it is new and has not had decades to accumulate members. The result is to protect JPAs from competition by the CalPFA which would reduce costs, increase capacity, and be good for the citizens of California. Is this CDLAC's intent?

- 3) The third concern expressed by the CDLAC was that "this practice may result in the marginalization of valid, local opposition to projects and may cause disputes between JPAs and non-member communities". Due to the federal Tax Equity and Fiscal Responsibility Act (TEFRA) requirements and its state law status as a political subdivision, the CalPFA's legal counsel has advised that the CalPFA itself is required to hold a public hearing and give TEFRA approval in addition to the public hearing and approval given by the elected body in whose political jurisdiction the project resides. The CalPFA TEFRA hearing proceedings are facilitated by the Kings County Board of Supervisors. In essence, the CalPFA is required to hold two public hearings and facilitate two TEFRA approvals for each transaction as opposed to other financing JPAs or state conduit authorities for which a single public hearing and TEFRA approval is required.

In addition, any project in which state allocation from the CDLAC is necessary would require a TEFRA hearing after a public notice of at least 14 days in advance, with no difference whether the project is located within a member's boundaries or not. Local opposition would be given exactly the same opportunity if the CalPFA were seeking to finance a project outside of its member's boundaries as opposed to some other JPA seeking to finance a project inside a member's boundaries. Absolutely no difference. Nor can there be a dispute between the JPA and its non-member community because the CalPFA will not receive TEFRA approval from the non-member community which can be withheld with or without reason.

It is also worth noting that state conduit authorities who are awarded hundreds of millions in state volume cap from the CDLAC each year are not required to accumulate members, as previously noted, and conduct a single TEFRA hearing proceeding only within Sacramento regardless of the project location(s) throughout the state. An argument could be made that this practice could lead to the marginalization of valid, local opposition.

Mr. LaPierre stated that for the reasons described above, the CalPFA respectfully requested that the CDLAC reconsider its proposed change to the JPA definition to allow the CalPFA to finance multifamily housing projects outside of its member's boundaries and maintain a vibrant competitive conduit issuer marketplace for the betterment of California.

Eraina Ortega asked if there were a reason why he did not want the folks that the CalPFA might be issuing bonds for to become a member of the JPA. Would that create a hardship?

Mr. LaPierre stated that it would not be a hardship; however, it does sometimes delay the process. The CalPFA now has approximately eight members since the inception of the JPA. Cities and counties are used to hold public hearings, virtually twice a month; however, they are not used to joining JPAs and looking at that process. Mr. LaPierre feels there is no benefit of having a member. Often there is one approval done by a resolution before the elected body. The elected body still has to give approval after publishing a notice and having a public hearing

RECOMMENDATION:

Staff recommended approval of the proposed CDLAC Regulations for submittal to the Office of Administrative Law (OAL) for emergency and regular rulemaking consideration.

Eraina Ortega moved approval of staff's recommendation. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Alan Gordon: Aye.

5. Consideration and Approval of a Waiver of the Forfeiture of Performance Deposit for the Leaster Apartments Project (15-307)- Qualified Residential Rental Project Program- (Action Item)

Misti Armstrong reported that the Leaster Apartments (Scattered Site) Project received allocation on March 18, 2015 and initially had its issuance deadline extended by the Committee to December 15, 2015, as permitted under the CDLAC Regulations. As a result of several unforeseen delays outside the control of the Project Sponsor, the CDLAC Executive Director provided a subsequent carryforward extension to January 29, 2016.

The process has been delayed due to delays in review and approval of certain items by U.S. Department of Housing and Urban Development (HUD), specifically the approval of post-rehabilitation rents. The Sponsor has submitted documentation to HUD for its review. While HUD has indicated that approvals are progressing, it has not yet provided a definitive timeframe.

Ms. Armstrong further reported that as part of such approval under the CDLAC Regulations, the Applicant is required to surrender the associated performance deposit. The Applicant and Project Sponsor are requesting a waiver of this requirement based upon the unforeseen delays experienced by the HUD administrative staff. The development team is now confident that it will be able to complete all closing steps by the extended bond close date of January 29, 2016.

RECOMMENDATION:

In light of the circumstances described above, staff recommended the approval of a Waiver of the Forfeiture of the Performance Deposit for the Leaster Apartments (Scattered Site) Project (15-307).

Eraina Ortega moved approval of staff's recommendation. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Alan Gordon: Aye.

6. Consideration and Approval of Issuance Date Extensions for Various Projects – Qualified Residential Rental Project Program: (Action Item)

<u>App.</u>	<u>Project</u>
15-383	Ocean View Manor Apartments
15-425	American Gold Star Manor Apartments

Brian Clark reported that issuance date extensions were requested for two (2) awarded QRRP projects. The need for the extensions related to delays with HUD and Housing Authority approvals necessary to close both transactions. Staff believed it was appropriate to grant additional time to resolve the outstanding issues and close on the bonds as required

RECOMMENDATION:

Staff recommended the approval of the following issuance date extensions:

15-383	Ocean View Manor Apartments	April 19, 2016
15-425	American Gold Star Manor Apartments	February 29, 2016

Eraina Ortega moved approval of staff’s recommendation. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Alan Gordon: Aye.

7. Determination and Adoption of the 2016 State Ceiling on Qualified Private Activity Bonds (Action Item)

Sarah Lester reported that the State’s allocation of private activity bond volume cap increased by \$34,231,800 to a new total of \$3,914,481,800 for 2016. Both the population increased by nearly 340,000 people over last year, and the U.S. Treasury held the per capita formula by \$5 to \$100 per person.

RECOMMENDATION:

Staff recommended adoption of a resolution establishing the 2016 State Ceiling for qualified private activity bonds at \$3,914,481,800.

Eraina Ortega moved approval of staff’s recommendation. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Alan Gordon: Aye.

8. Consideration and Adoption of the Apportionment of the 2016 State Ceiling among the State Ceiling Pools (Action Item)

Sarah Lester reported that Staff recommended the following changes from the 2015 program pools: creating a \$200 million Multifamily Pool for CalHFA, increasing the Mixed Income Pool by \$250 million to \$500 million, reducing the yet-to-be used Beginning Farmer Project Pool from \$50 million to \$0, increasing the Single-Family Housing Program Pool by \$100 million to \$800 million, and eliminating the Single Family Housing Program Bonus Pool. Outside of these changes, the established 2015 program pools will be maintained.

RECOMMENDATION:

Staff recommended reservation amounts that reflect the statutory emphasis on affordable housing. Staff recommended the following amounts of each of the State Ceiling Pools for 2016:

<u>State Ceiling Pool</u>	<u>Reservation</u>	<u>Percent of Ceiling*</u>
General Project Pool	\$850,000,000	21.71%
- CalHFA	\$136,000,000	3.47%
Mixed Income Pool	\$500,000,000	12.78%
- CalHFA	\$40,000,000	1.02%
Rural Project Pool	\$150,000,000	3.83%
- CalHFA	\$24,000,000	.61%
<i>Sub-Total – Multifamily Projects</i>	<i>\$1,700,000,000</i>	<i>43.42 %</i>
Single-Family Housing Program Pool	\$800,000,000	20.44%
Single-Family Housing Program Bonus Pool	\$0	0%
<i>Sub-Total – Single-Family Programs</i>	<i>\$800,000,000</i>	<i>20.44%</i>
Extra Credit Teacher Home Purchase Program	\$0	0%

Pool		
Single-Family Home Improvement and Rehabilitation Program	\$150,000,000	3.83%
<i>Housing Total</i>	<i>\$2,650,000,000</i>	<i>67.69%</i>
Beginning Farmer Project Pool	\$0	0%
Small-Issue Industrial Development Project Pool	\$50,000,000	1.28%
Exempt Facility Project Pool	\$0	0%
Student Loan Program Pool	\$0	0%
<i>Non-Housing Total</i>	<i>\$50,000,000</i>	<i>1.28%</i>
Allocation on Hold (undesignated reserve)	<i>\$1,214,481,800</i>	<i>31.03%</i>
GRAND TOTAL	<i>\$3,914,481,800</i>	<i>100.0%</i>

*Percentages are rounded.

Eraina Ortega moved approval of staff's recommendation. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Alan Gordon: Aye.

9. Consideration of a \$12,726,810 Award of Allocation for the Hancock Gardens Apartments Project (16-301) Qualified Residential Rental Project Program (Action Item)

a. Consideration of appeals*

Misti Armstrong reported that there were no appeals.

General Pool

Ms. Armstrong stated that the General Pool reflected one (1) project requesting a total allocation of \$12,726,810 that received a Forward Commitment from CDLAC at an earlier date.

RECOMMENDATION:

Staff recommended approval of \$12,726,810 to fund one (1) previously reviewed project in the General Pool.

Eraina Ortega moved approval of staff's recommendation. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Alan Gordon: Aye.

10. Consideration of a \$50 million Award of Allocation for the California Industrial Development Financing Advisory Commission (CIDFAC) for the Small-Issue Industrial Bond Program (IDB)

(Action Item)

a. Consideration of appeals**

Misti Armstrong reported that there were no appeals.

Ms. Armstrong stated that the Committee approved a similar transfer of \$50 million to CIDFAC for 2015, and approximately \$36 million was utilized. For 2016, CIDFAC anticipates demand of \$50 million.

RECOMMENDATION:

Staff recommended the Committee award the California Industrial Development Financing Advisory Commission \$50,000,000 in Industrial Development Bond Allocation for the purpose of allocating portions of the award to Project Sponsors for the purpose of issuing bonds for IDB projects.

Eraina Ortega moved approval of staff's recommendation. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Alan Gordon: Aye.

~~11. Consideration and Approval of an Issuer Non-Compliance Policy (Action Item)~~

12. Public Comment (Action Item)

There was no public comment.

13. Adjournment

The Chairperson adjourned the meeting at 11:34 a.m.