

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
January 20, 2016

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 and Public Comment Matrix for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

BACKGROUND

CDLAC recently conducted a 30-day pre-notice public comment period, commencing on December 18, 2015 and ending on January 17, 2016, and held a Public Hearing on January 19, 2016 in Sacramento. Upon the Committee's authorization, CDLAC will submit a request for emergency approval of the proposed regulation changes to the Office of Administrative Law on January 27, 2016 with an anticipated approval and adoption date of February 8, 2016.

The proposed revisions will:

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

The following are the proposed revisions to the CDLAC Regulations:

1. **Revision of "Annual Applicant Public Benefits and Ongoing Compliance Self-Certification" Form**
(incorporated by reference)

The form has been modified for consistency with the proposed regulatory requirement that the Issuer retain the Compliance Certification as opposed to CDLAC. The form has also been modified to clarify and streamline the questions related to the status of the Project. These revisions will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process. The revised date of the Certification form will be updated to "12-15-15" to ensure that only the most recent edition of the form is used for compliance verification.

2. **Revision of "Certification of Compliance" Form** **(incorporated by reference)**

The proposed revisions requires an Applicant/Issuer to retain the Certification form for a period of three years and deletes the portions of the Certification requiring the physical submission of supporting documentation

which is now submitted and evaluated by the Tax Credit Allocation Committee. These revisions will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process. Additional revisions clarify that the identification requirement for projects undergoing construction or rehabilitation is limited to projects that have not been placed in service. The revised date of the Certification form will be updated to “12-15-15” to ensure that only the most recent edition of the form is used for compliance verification.

3. Revision of CDLAC Regulations for Definitions (Section 5000)

Revision of “Annual Applicant Public Benefits and Ongoing Compliance Self-Certification” Definition

The Proposed revision, which identifies the form as being located in the “*online compliance certification system*” will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process. The revised date of the Certification form will be updated to “12-15-15” to ensure that only the most recent edition of the form is used for compliance verification.

Revision of “Applicant” Definition

A JPA has recently taken the position that it has the ability to issue Private Activity Bonds for projects outside its members’ boundaries. This practice may create a competitive advantage for any issuer adopting this practice absent any identified public benefit and may result in JPA’s exercising powers beyond those granted in the Joint Exercise of Power Act. Additionally, this practice may result in the marginalization of valid, local opposition to projects and may cause disputes between JPA’s and non-member communities. The proposed revisions prevent JPA’s from issuing Private Activity Bonds for projects located outside the boundaries of its members. Additional proposed revisions are non-substantive and make the definition easier to comprehend.

Revision of “Certification of Compliance” Definition

The Proposed revision will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process. The revised date of the Certification form will ensure that only the most recent edition of the form is used for compliance verification. The revised date of the Certification form will be updated to “12-15-15” to ensure that only the most recent edition of the form is used for compliance verification.

Revision of “TEFRA Resolution” Definition

The proposed revisions include deleting the term “Tax Equity and Fiscal Responsibility Act of 1983”. The regulation cites “26 U.S.C. section 147(f)”, the statutory citation for the provisions of the Act applicable to the TEFRA process. The proposed deletion eliminates redundant verbiage and provides a concise reference to federal statutory TEFRA process requirements. In response to a public comment, additional proposed revisions will provide flexibility in how TEFRA processes are documented, will remove the requirement that the actual resolution be signed and will require execution of an accompanying certification by an applicable elected representative or a designee in order to provide flexibility to the overall TRFRA resolution process while ensuring compliance with federal law.

4. Revision of CDLAC Regulations for Minimum Application Requirements. (Section 5033 (b)(5))

The proposed revisions require submission of proof of public notice of the TEFRA hearing and will create uniform TEFRA submission deadlines to ensure compliance with the provisions of federal law regarding the noticing and conduct of TEFRA hearings. The proposed renumbering is necessary for the inclusion of new provisions and enhances comprehension of the subdivision as a whole.

The proposed new subdivision (b)(5) maintains the current list of projects for which a TEFRA resolution must be provided and contains the four-day submission deadline of the existing subdivision (b)(5)(A).

(b)(5)(A)

The proposed new subdivision (b)(5)(A) requires the submission of proof of public notice of the TEFRA hearing. This new requirement will enable CDLAC to verify and monitor compliance with the 26 U.S.C. Section 147(f)(2)(B)(i) “reasonable public notice” requirement for TEFRA hearings.

(b)(5)(B)

The proposed new subdivision (b)(5)(B) contains TEFRA Resolution requirements listed in the existing subdivision (b)(5). The proposed renumbering is necessary for the inclusion of new provisions and enhances comprehension of the subdivision as a whole.

(b)(5)(C)

The proposed new subdivision (b)(5)(C)(i) contains the provisions of the existing subdivision (b)(5)(B)(i). The proposed new subdivision (b)(5)(C)(ii) requires an Applicant to submit a fully executed copy of the adopted TEFRA resolution, a requirement inadvertently omitted from the existing regulation. This requirement closes an unintentional loophole (*e.g.*: Applicants unable to meet the standard TEFRA resolution submission deadline are not required to submit an executed TEFRA resolution) and allows CDLAC to verify that all projects were subject to a TEFRA hearing required by 26 U.S.C. Section 147(f). The proposed timing of the resolution submission, at least 24 hours before the Committee meeting, enables otherwise viable projects to move forward in the allocation process while also providing staff with sufficient time to verify that the requirements of 26 U.S.C. Section 147(f) have been met. The proposed renumbering is necessary for the inclusion of new provisions and enhances comprehension of the subdivision as a whole.

(b)(5)(D)

The proposed new subdivision (b)(5)(D)(i) replaces the existing 30-day after application proof submission deadline with the no less than four calendar days prior to preliminary posting deadline applicable to all other projects. The two deadlines are essentially similar, 30-days after an application submission deadline is typically four days prior to an allocation round’s preliminary posting date. The four day deadline is being utilized in the interest of continuity and to reduce confusion regarding proof submission deadlines. Applying the four day deadline to all projects makes the regulations easier to interpret and implement. The proof required to be submitted by the new subdivision (b)(5)(D)(i) is the same as required by the existing subdivision (b)(5)(B)(ii). The proposed new subdivision (b)(5)(D)(ii) contains the TEFRA resolution submission deadline contained in the existing (b)(5)(B)(ii). The proposed renumbering is necessary for the inclusion of new provisions and enhances comprehension of the subdivision as a whole.

5. Revision of CDLAC Regulations for Forfeiture of Performance Deposit (Section 5052(b))

The proposed revisions clarify that the failure to issue at least one Mortgage Credit Certificate (MCC) prior to the applicable expiration date will result in performance deposit forfeiture and that the performance deposit will be fully refunded if at least one MCC is issued prior to the applicable expiration date. The current language may be interpreted as requiring performance deposit forfeiture if at least 80% of an MCC allocation is not used to issue at least one MCC prior to the applicable expiration date. As individual MCC’s are issued in amounts much smaller than 80% of the awarded amount, such a requirement would likely result in the forfeiture of all MCC performance deposits and the statewide discontinuance of MCC programs. The proposed revisions also align subdivision 5052(b) with the portions of subdivisions 5051(c), 5100(b)(1) and 5100(b)(2) regarding conversion and issuance deadlines for MCC’s and MCC performance deposit release.

6. Revision of CDLAC Regulations for Annual Applicant Public Benefits and On-going Compliance Self Certification (Section 5144)

The proposed revisions will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process. An additional revision removes outdated language to make the Regulation easier to understand.

7. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(c))

The proposed revisions will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process.

8. Revision of CDLAC Regulations for Certification of Compliance (Section 5220)

(a)

The proposed revisions will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process.

(c)

The proposed new subdivision requires Qualified Residential Rental Program allocation recipients to execute and record a regulatory agreement against the property. The proposed language will further ensure that projects provide a public benefit and that the affordability, energy efficiency, service amenities, etc. promised by sponsors/developers in order to obtain an allocation are provided to tenants and are continued to be provided by subsequent owners. Additionally, recordation of the regulatory agreement will provide notice of the property's restrictions/requirements, will minimize the likelihood of prospective owners being unaware of a property's income restrictions, amenity requirements, etc. and will enhance the ability of lenders and prospective owners to evaluate ownership and maintenance costs. It is CDLAC's understanding that Issuers receiving CDLAC allocations typically execute and record regulatory agreements. The proposed regulation seeks to formalize an existing practice.

(d)

The proposed new subdivision (d)(1) requires sponsors to apply for and accept all renewable rental assistance. Pursuant to the proposed subdivision (d)(2), where assistance or subsidies are terminated, a property owner may, in order to preserve a property's financial viability, raise rents on restricted units to federal and state-permitted maximums. As further required by the proposed subdivision (d)(2), the termination cannot be the fault of the owner, the owner must seek to find alternative subsidies or financing structures and CDLAC must be provided with written notification of the termination and documentation showing efforts to obtain alternative funding. The proposed subdivision (d)(2) further requires skewing rents higher on portions of a project to preserve the affordability of units targeted to extremely low income individuals, the phasing of rents consistent with maintaining financial feasibility and minimizing disruption of special needs populations. The proposed language seeks to maintain restricted unit affordability and ensure financial viability by requiring projects to apply for and accept renewable operating assistance and subsidies. The proposed language further seeks to maintain affordability and financial viability by permitting projects that have lost assistance/subsidies to increase rents on restricted units up to federal and state maximums. The proposed language further seeks to maintain existing affordability levels by requiring owners to seek alternative financing structures and provides a CDLAC notice and review mechanism. Additionally, the proposed language seeks to limit the impact of rent increases on vulnerable populations.

9. Revision of CDLAC Regulations for Disqualification (Section 5221)

The proposed revision adds “Project Issuer” to the list of entities whose actions/omissions may result in the disqualification of an application for Qualified Residential Rental Pool allocation eligibility. The proposed revision seeks to ensure cooperation, honesty and fair dealing on behalf of all relevant parties; including but not limited to, Project Issuer compliance with CDLAC’s annual compliance certification requirements. Although it has improved, participation in the mandatory compliance review process has been an ongoing issue.

10. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230)

(h)

The proposed revisions to subdivisions (h)(1) and (2) subjects leveraging points to the same rounding process applied to the other points categories in Section 5230 (rounded to the nearest tenth of a point, per the dictates of subdivision (a), as opposed to rounding to the nearest whole number). The proposed revision will close a loophole whereby projects may receive one leveraging point for as little as one cent of public funds or taxable debt. In specific regards to taxable debt points, the current practice of awarding of points in one-half (1/2) point increments makes little sense when the total is rounded to the nearest whole number.

(k)(11)

The proposed revision will effectuate the online administration of the Compliance Certification process. The online system will eliminate paper submissions and will simplify and streamline the certification compliance process.

The Proposed Emergency CDLAC Regulations and Public Comment Matrix are attached.

DISCUSSION

Should the Committee approve these revisions, staff will 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 will commence on the day of submittal, with possible enactment of the regulations within 10 days thereafter. All consequential comments will be considered by staff and may result in reevaluation of the proposed regulations. Should this occur, staff will provide updated proposed regulations to the Committee. If this additional step is required, any Committee update would need to be handled by a special meeting if there was 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.

RECOMMENDATION

Staff recommends approval of the proposed CDLAC Regulations and Public Comment Matrix for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

Prepared by: Brian Clark

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:

“Annual Applicant Public Benefits and Ongoing Compliance Self-Certification (12-15-15 5-21-14)”, hereby incorporated by reference, means the document ~~provided in the Committee Resolution in the~~ online compliance certification system 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 the following entities submitting an Application to the Committee:

- a state or local governmental agency; or
- a joint powers authority (JPA) applying for bond allocation for a project, except for projects described in California Government Code Section 6586.5(c), that is or will be located entirely within the geographical boundaries of one or more of the JPA’s members; or
- a special district; or
- a nonprofit public benefit corporation that issues only student loan bonds; or
- any other public agency that is empowered to issue debt.

~~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.~~

“Certification of Compliance (12-15-15 5-21-14)”, hereby incorporated by reference, 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.

“TEFRA Resolution” means an 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), that is documented and includes a certification executed by the applicable elected representative or their designee.

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

Section 5033. Minimum Application Requirements. (a) Applications for an Allocation of the State Ceiling may be submitted to the Committee at its offices in Sacramento, California. An Applicant must submit all required information appropriate to the type of Bond for which the Applicant requests an Allocation. The Applicant shall submit a complete Application and supplemental material for each project or program for which the Applicant is requesting an Allocation. Only complete Applications bearing the original signatures of an officer of the Applicant and the Project Sponsor, if applicable, will be accepted.

(b) Unless specifically exempted, the following items must accompany all Applications:

(1) Performance Deposit Certification and evidence of the performance deposit as provided in section 5050(a).

(2) A non-refundable first installment of the filing fee of \$600 made payable to the California Debt Limit Allocation Committee as provided in section 5054(a).

(3) Proof of the Bond sale structure requirements pursuant to article 6 of this chapter, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to chapter 3).

(4) An inducement or reimbursement resolution adopted by the governing body of the Applicant approving the project or program to be Bond financed and authorizing a senior officer, or in the case of a Student Loan Program, an officer of the sponsor of the Student Loan Program, to file the Application with the Committee, pay any fees required by the Committee, and certify the posting of the required performance deposit.

(5) For all Applications other than those relating to a Mortgage Credit Certificate Program pursuant to chapter 3, a Recovery Zone Economic Development Bond Project, or a Qualified Energy Conservation Bond Project (governmental bond only), the following shall be provided to the Committee no less than four (4) calendar days prior to the first public posting of Committee recommendations as provided in section 5035 of the CDLAC Regulations:

(A) proof of public notice of the TEFRA hearing; and

(B) a copy of the fully executed TEFRA Resolution adopted by the governing body of the jurisdiction in which the proposed project or program will be located, or in the case of a Student Loan Program, a resolution adopted by the sponsor of the Student Loan Program memorializing the public approval process as required by 26 U.S.C. section 147(f). The resolution shall clearly indicate that a public hearing was properly noticed and held with respect to the proposed issuance of Bonds. Such resolutions shall be accompanied by the approval of the Bonds for the specific project or program by the applicable elected representative as such term is defined in 26 U.S.C. section 147(f)(2)(E).

(C) In the event that a fully executed copy of an adopted TEFRA Resolution cannot be provided within the timeframe set forth in subdivision (b)(5) of this section, the Applicant shall provide: (i) within the timeframe set forth in subdivision (b)(5) of this section, written certification of the date, time, location,

and outcome of the public hearing, the approval of the issuance of Bonds by the applicable elected representative, and that the actions comply with the provisions of 26 U.S.C. section 147(f); and (ii) no more than twenty-four (24) hours prior to the scheduled commencement of the Committee meeting at which the project is seeking an allocation, a fully executed copy of the adopted TEFRA Resolution.

(D) In the event that a TEFRA Resolution for a proposed project or program is to be signed by a member of the Committee, the Applicant may submit:

(i) no less than four (4) calendar days prior to the first public posting of Committee recommendations as provided in section 5035 of the CDLAC Regulations, the minutes of the required public hearing and proof of publication of the notice announcing the public TEFRA hearing; and

(ii) no later than the date on which a Report of Action Taken must be submitted, as required by section 5142 of the CDLAC Regulations, a fully executed copy of the adopted TEFRA Resolution.

~~For all Applications other than those relating to a Mortgage Credit Certificate Program pursuant to chapter 3, a Recovery Zone Economic Development Bond Project, or a Qualified Energy Conservation Bond Project (governmental bond only), a TEFRA Resolution adopted by the governing body of the jurisdiction in which the proposed project or program will be located, or in the case of a Student Loan Program, a resolution adopted by the sponsor of the Student Loan Program, memorializing the public approval process as required by 26 U.S.C. section 147(f). The resolution shall clearly indicate that a public hearing was properly noticed and held with respect to the proposed issuance of Bonds. Such resolutions shall be accompanied by the approval of the Bonds for the specific project or program by the applicable elected representative as such term is defined in 26 U.S.C. section 147(f)(2)(E). A copy of the fully executed adopted resolution with the approval of the Bond issue must be provided to the Committee:~~

~~(A) No less than four (4) calendar days prior to the first public posting of Committee recommendations as provided in section 5035.~~

~~(B)(i) In the event that a copy of an adopted TEFRA Resolution cannot be provided within the timeframes set forth in subdivision (b)(5)(A) of this section, the Applicant shall provide written certification as to the date, time, location, and outcome of the public hearing, the approval of the issuance of Bonds by the applicable elected representative, and that the actions comply with the provisions of 26 U.S.C. section 147(f). The certification shall be accompanied by a copy of the notice announcing the public hearing. If the required documentation is not received within the timeframe specified above, the Application will not be considered for an Allocation.~~

~~(ii) In the event that a TEFRA Resolution for a proposed project or program is to be signed by a member of the Committee, the Applicant may submit only the minutes of the required public hearing and proof of publication of the notice announcing the public hearing no later than thirty (30) calendar days following the application deadline. Applicants shall submit the signed TEFRA Resolution no later than the date on which they submit a Report of Action Taken, as required by section 5142.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(a), 8869.85(b), and 8869.90, Government Code.

Section 5052. Forfeiture of Performance Deposit. (a) For Projects receiving an allocation award on or after March 16, 2016, an extension of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132 will result in forfeiture of the Project's performance deposit to the extent that the performance deposit has not previously been forfeited.

- (b) If less than 80% of the Allocation is used to issue Bonds ~~or issue at least one (1) Mortgage Credit Certificate prior to the expiration date~~, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the amount of awarded Allocation. If at least one (1) Mortgage Credit Certificate is not issued prior to the applicable expiration date, the entire performance deposit will be forfeited. If 80% or more of the Allocation is used to issue bonds prior to the expiration date, ~~or issue~~ at least one (1) Mortgage Credit Certificate is issued prior to the applicable expiration date, a full refund of the performance deposit will be authorized.
- (c) Applicants bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and/or timeframes set forth in the Committee Resolution.
- (d) The Applicant shall remit all forfeited performance deposits to the Committee within thirty (30) days of receipt of an invoice issued by the Committee.
- (e) An Applicant may request waiver of a performance deposit forfeiture by submitting a written request to the Executive Director within 30 days of the date of the Committee's Forfeiture Fee Invoice. The Committee shall grant a forfeiture waiver upon a showing that the circumstances prompting the forfeiture were unforeseen and entirely beyond the control of the Project's sponsor and development team. The granting of a waiver pursuant to this subsection will not preclude performance deposit forfeiture for subsequent extensions of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), and 8869.86(c)(3) Government Code.

Section 5144. Annual Applicant Public Benefits and On-going Compliance Self Certification. All Projects that receive an Allocation and are within an existing regulatory period and/or compliance period shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). The Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification (~~12-15-15 5-21-14~~), via the online compliance certification system which is by reference, provided on the Committee website certifying whether or not the Project meets the terms and conditions of the Committee Resolution. The self-certification must be submitted by the Applicant to the California Debt Limit Allocation Committee no later than March 1 of each year (or at such other time as requested by the Committee). ~~For calendar year 2012 only, Issuers shall submit self-certifications for pre-2011 bond issuances no later than the extended deadline of September 1, 2012.~~ The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b), and 8869.86(c) Government Code.

Section 5205. Minimum Requirements.

- (a) Applicants shall provide a certification that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects. The

requirements of subsections (2) through (9) of this section are only applicable when investment in such elements is proposed in the Project's scope of work and/or the Capital Needs Assessment:

(1) Energy Efficiency. All rehabilitation projects shall have improved energy efficiency above the modeled energy consumption based on existing conditions, with at least a ten percent (10%) post-rehabilitation improvement over existing conditions. Scattered-site rehabilitation projects shall also have at least a five percent (5%) improvement over existing conditions at each location. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date pursuant to a government program or a public or regulated utility program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements.

(2) Landscaping. A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the State's Model Water Efficient Landscape Ordinance (Title 23, California Code of Regulations, Section 490 et seq.)

(<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.

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

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

(5) Appliances. Refrigerators, dishwashers, clothes washers and clothes dryers provided or replaced within low-income units and/or in on-site community facilities shall be ENERGY STAR rated appliances unless waived by the Executive Director. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline

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

(7) Water Heater. For units with individual tank-type water heaters, minimum capacities are to be 28 gallons for one-bedroom and two-bedroom units and 38 gallons for three-bedroom and larger units.

(8) Floor Coverings. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. All carpeting shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D.

(9) Insulation. All fiberglass-based insulation shall meet the requirements as established by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (f)(7)(I).

(b) If a rehabilitation project's Applicant does not propose to meet the requirements of this section, its capital needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. If section 5205(a)(1) specifically is not being met, a qualified energy consultant shall provide documentation stating what energy improvements would achieve the 10% improvement, the cost of such improvement(s), and a statement describing why the improvements would be unnecessary and/or excessively expensive.

(c) Compliance and Verification. Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to TCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit evidence of compliance 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.

(1) Projects subject to subdivision (a)(1) must submit the California Energy Commission HERS II energy consumption and analysis report, which shows the pre-rehabilitation and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement, ~~with the first annual certification of compliance.~~

(2) For subdivisions (a)(2) through (a)(9), Applicants shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:

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

(3) Failure to produce appropriate and acceptable third party documentation for subdivisions (a) (1) through (a)(9) of this section may result in negative points.

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

Section 5220. Certification of Compliance. (a) All Projects that receive an Allocation shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant. The Applicant shall annually collect and retain submit a Certification of Compliance, ~~as in the document provided in the Committee Resolution to the Committee annually that the Project meets the terms and conditions of the Committee Resolution.~~ The certification must be submitted by the Project Sponsor (on Project Sponsor letterhead) to the Applicant who will then provide confirmation of receipt forward it to the California Debit Limit Allocation Committee no later than March 1 of each year (or at such other time as requested by the Committee) via the online compliance certification system. The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy.

(b) All Projects that receive Allocation and an award of low income housing tax credits shall be monitored by the Committee or an entity acting on its behalf for compliance with the terms and conditions of the Committee Resolution, and shall be subject to the provisions of section 10337 of Title 4 of the California Code of Regulations.

(c) All Qualified Residential Rental Program allocation recipients are required to execute a regulatory agreement, as a condition to the Committee's making an allocation, which will be recorded against the property for which the allocation is used, and will reflect all commitments outlined in exhibit A of the Committee's resolution.

(d) Where a Project is receiving renewable project-based rental assistance or operating subsidy:

(1) the Sponsor shall in good faith apply for and accept all available renewals; and

(2) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall immediately notify CDLAC in writing and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the CDLAC resolution. Upon documenting to CDLAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for rent restricted units above the levels allowed by the CDLAC resolution up to the federally and state-permitted maximums. Rents shall be raised only to the extent required for financial feasibility, as determined by CDLAC. Where possible, remedies shall include skewing rents higher on portions of the

project in order to preserve affordability for units regulated by CDLAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's financial feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.

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

Section 5221. Disqualification. The Committee may disqualify an Application for a portion of the Qualified Residential Rental Pool if any of the following have been documented about the Project Issuer, Project Sponsor or any entity that is a Related Party of the Project Sponsor:

- (a) Significant outstanding non-compliance in matters relating to the annual Certification of Compliance, tenant files or physical conditions at any tax-exempt Bond or low income housing tax credit financed property in California. Properties monitored by the Committee or an entity acting on its behalf and owned by the Project Sponsor or any entity that is a Related Party of the Project Sponsor or management company will not be considered until the Committee has received documentation that the outstanding non-compliance matters have been resolved;
- (b) Multiple or repeated failures to use committed public subsidies, private activity Bond allocations within applicable deadlines, or to provide physical amenities or services;
- (c) Providing false information in connection with an Application; or
- (d) Information that leads the Committee to reasonably and in good faith conclude that an allocation will be inimical to, or incompatible with, the purposes of these regulations or the laws regulating the allocation of the State Ceiling on Qualified Private Activity Bonds.

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

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 unless otherwise stated in this section. Each of the items in this section shall be memorialized in the Committee Resolution.
- (b) Preservation Projects. Projects meeting the following criteria shall receive the following points, up to a maximum of 20 points:
 - (1) a project subject to a Residential Rental Regulatory Agreement or a local, state, or federal rental or operating assistance contract, or a project subject to an expired residential rental agreement that continues the rental structure prescribed by the expired residential rental agreement, as demonstrated by a copy of the executed agreement or contract, shall receive ten (10) points;
 - (2) a project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it receives state or federal rental assistance or a state, federal, or local operating subsidy and, as a result, the rents are limited in at least fifty percent (50%) of the Project's tenant units to no more than thirty percent (30%) of each such unit's tenants' income, as demonstrated by a copy of the executed agreement or contract;

(3) a Project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it has income restricted tenant paid rents for each Restricted Rental Unit type that on average are at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties, as demonstrated in a market study meeting the requirements of section 5200(e) and in a table utilizing three (3) market comparable properties for each restricted unit type in the Project.

(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. The Applicant must indicate which components of the utility allowance schedule apply to the Project. 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 (CABEC) Certified Energy Analyst (CEA). 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. Use of the CUAC is limited to new construction projects and existing tax credit projects with Multifamily Affordable Solar Housing (MASH) program awards that offset tenant area electrical load.

(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. When family comparables are used in addition to senior comparables (outside the 1-mile radius) points will be calculated using the family matrices. 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). Five (5) points will be awarded to those Projects where at least twenty-five percent (25%) 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 (5 points). Projects meeting the following criteria will receive 5 points:

(1) The project is located within:

(A) any Qualified Census Tract or equivalent geographic area defined by the Census Bureau in which at least fifty percent (50%) of the households have an income of less than sixty percent (60%) AMI; or

(B) a Federal Promise Zone; and

(2) The development will contribute to a concerted Community Revitalization Plan as demonstrated by a letter from a local government official. The letter must delineate the community revitalization efforts, including but not limited to:

(A) community enhancement services in the neighborhood, including but not limited to, job training or after-school enrichment programs;

(B) funds, not including funds for the proposed project, that have been expended in the past three (3) years, that are being expended or that are committed to be expended to improve the community

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

(C) projects, including but not limited to, retail, office and housing that contributes to community revitalization that have been completed within the past three (3) years, are underway or are committed to be completed; and

(D) how the project would contribute to the community's revitalization.

(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) Points will be awarded for the following Transit amenities:

(1) Two and one-half (2 ½) points for projects located within one-third (1/3) 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; or

(2) Two and one-half (2 ½) points for projects located within one-half (1/2) mile of a High Quality Transit stop or station.

(3) Projects eligible for points in subsection (A)(1) or (2) will receive the following additional points for committing to provide to residents monthly passes for the transit amenity for which the project received points at no cost or priced at no more than half of retail cost. Passes shall be made available on a first-come, first-served basis to all tenants of rent-restricted units for at least 15 years:

(i) three (3) points for at least one pass per rent-restricted unit

(ii) one and one-half points (1½) for at least one pass per each 2 Rent-Restricted units.

(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. Evidence shall include, but is not limited to, the following: a signed letter from a county assessor or city planner for that jurisdiction certifying the square footage of the grocery store, a letter from the store manager, or a letter from the Project's architect. The letter must state the square footage of the grocery market. 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. 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. Evidence shall include, but is not limited to, the following: a signed letter from the school district with the appropriate Project address stating said address is within the boundaries of the school, or documentation from an internet-based school locator tool.

(E) Two and one-half (2 1/2) points will be awarded to Projects located within:

(i) 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic:

(I) that has a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, and

(II) that accepts Medi-Cal and Medicare payments, or Health Care for the Homeless for projects housing homeless populations, or that has an equally comprehensive subsidy program for low-income patients; or

(ii) 1 mile (for Rural set-aside projects, 1.5 miles) of a hospital (not merely a private doctor's office); or

(iii) 1/2 mile (for Rural projects, 1 mile) of a pharmacy.

(F) Two and one-half (2 1/2) points will be awarded to Projects located within one-half (1/2) mile of a public library.

(G) Two and one-half (2 1/2) 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 15 years, free of charge to the tenants, and available at the time of the project's placed-in-service date.

(k) Sustainable Methods (10 points maximum).

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

The Project Sponsor shall submit a certification at Project completion from the Project's licensed architect 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.

Five (5) points will be awarded to Projects that commit to irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens).

Two (2) points will be awarded to Projects that commit to having at least one (1) nonsmoking building.

If the proposed Project contains only one (1) building, the Project is subject to a policy developed by the Sponsor that prohibits smoking in contiguous designated units. In both circumstances these restrictions shall be incorporated into the lease agreements for the appropriate units.

Two (2) points will be awarded to Projects that commit to a parking ratio equivalent to or less than 1 parking stall per single room occupancy or one-bedroom restricted rental unit and 1.5 parking stalls per two-bedroom or larger restricted rental unit.

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).

(7) For projects receiving points under subdivision (k)(6) 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)(6) of this section:

| | | |
|------------------|--------|------|
| LEED | Silver | Gold |
| GreenPoint Rated | Silver | Gold |

| | | |
|--|----------|----------|
| | 3 points | 5 points |
|--|----------|----------|

(8) New Construction or Adaptive Reuse Projects not eligible for points under subdivision (k)(6) of this section shall be awarded energy efficiency points according to one of the following:

(A) 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 the 2013 Title 24, Part 6, of the California Building Code (the 2013 Standards), shall be awarded as follows:

| Percentage better than the 2013 Standards | Low-Rise Multifamily (3 or fewer habitable stories) | High-Rise Multifamily (4 or more habitable stories) |
|---|---|---|
| 9 percent | 3 points | 4 points |
| 15 percent | 5 points | 6 points |
| 24 percent | 8 points | 9 points |
| 30 percent | 10 points | 10 points |

(B) Energy Efficiency with renewable energy that provides the following percentages of project tenants' energy loads:

| Offset of Tenants' Load | Low-Rise Multifamily (3 or fewer habitable stories) | High-Rise Multifamily (4 or more habitable stories) |
|-------------------------|---|---|
| 20 percent | 3 points | 4 points |
| 30 percent | 4 points | 5 points |
| 40 percent | 5 points | |

The percentage Zero Net Energy (ZNE) solar offset of a project's tenant energy loads is to be calculated using the California Utility Allowance Calculator (CUAC) with kilowatt hours (kWh) consumed to be balanced by kilowatts generated on-site. Gas use is to be converted to kWh for percentage ZNE offset calculations, assuming 1 Therm = 29.3 kWh, and 100,100 British Thermal Units (BTUs) = 29.3 kWh. Residential energy loads modeled by the CUAC shall include all energy used by tenants, both gas and electric, regardless of whether the energy load is billed to the owner or the tenants. This calculation excludes non-residential energy uses associated with the community building, elevators, parking lot lighting, and similar end uses, but includes domestic hot water and Heating, Ventilation, and Air Conditioning (HVAC) loads, regardless of whether they are central or distributed.

(9) Rehabilitation Projects: The project will be rehabilitated to improve energy efficiency above the modeled energy consumption of the building(s) based on existing conditions. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements. 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:

| | |
|--------------------------|-----------|
| Improvement Over Current | |
| 15 percent | 3 points |
| 20 percent | 5 points |
| 25 percent | 7 points |
| 30 percent | 10 points |

(10) Additional Rehabilitation Project Measures.

(A) For projects receiving points under subdivision (k)(9) 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)(9) of this section, Applicants may be awarded two (2) 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) 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.

(11) Compliance and Verification. Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to TCAC with the Placed in Service Application.

Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit Evidence of Compliance 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)(6) and (k)(8) 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)(7), 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 Analyst (CEA). 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)(9), the Applicant must submit the California Energy Commission HERS II energy consumption and analysis report, completed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA), 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)(10) 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)(6)(i).

(ii) For sustainable building management practices, the Applicant must submit a copy of the energy management and maintenance manual and, the building commissioning plan.

(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.

(12) Failure to produce the appropriate documentation for subdivisions (1) through (11) of this subsection may result in an award of negative points for the Project Sponsor.

(l) 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 fifteen (15) 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-half (½) mile of the Project (one and one-half (1½) miles for Rural projects) 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. Projects may use off-site services located more than one-half (½) mile from the Project (one and one-half (1½) miles for Rural projects) 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, and a written agreement at the time of Application demonstrating that tenants will be provided with free of charge round-trip transportation between the development and the off-site services. Referral services will not be eligible for points.

(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.

Evidence 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. 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 services program.

(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 full time-equivalent (FTE) 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 minimum number of hours per year for the full time-equivalent service coordinator/social worker will be calculated based on the formula: 1) the number of bedrooms X 0.0017 = FTE multiplier; then 2) FTE Multiplier X 2,080 = minimum number of hours per year (up to a maximum of 2,080 hours). 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 and Substantial Rehabilitation Projects (10 points). Ten (10) points will be awarded to new construction, substantial renovation or adaptive re-use Projects with Restricted Rental Units.

(n) For projects subject to the Competitive Application Process, one (1) point will be awarded for each one percent (1%) of foregone eligible developer fee, as determined by the California Tax Credit Allocation Committee, pursuant to Title 4, Division 17, Chapter 1, Section 10327, up to a maximum of ten (10) points.

(o) 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 unforeseen and 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 unforeseen and entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) succeeding years (10 points each year) following the year 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 unforeseen and 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 unforeseen and 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) Where TCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.

(3) Where TCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.

(4) Multiple or repeated failures of subdivisions (n)(1) or (3) of this section may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

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

ATTACHMENT B

PUBLIC COMMENT MATRIX
CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

| Item # | Section | Public Comments | Commentator | Staff Comments/Recommendations | Accept / Reject (A/R) |
|---------------|--|---|--------------------|--|------------------------------|
| 1 | 5033 | The proposed Subdivision 5033b)(5)(C)(ii) contains a typographical error. | Robert Feyer | The proposed subdivision has been revised to correct the typographical error. The extraneous “a that” has been removed. | A |
| 2 | 5000 “TEFRA Resolution” Definition | The word "signed" can be deleted from the definition because what the federal law requires is just the "approval" in whatever form the elected representative makes it. An individual, like an elected mayor or the Treasurer, would "sign" a certificate, but normally one wouldn't think of a city council, for instance, "signing" a resolution. | Robert Feyer | The comment is beyond the scope of the proposed revisions. However, the fact that federal law does not contain a signature or certification provision does not preclude CDLAC from having such a requirement. The signature requirement is a check to ensure compliance with the TEFRA process and to safeguard the tax-exempt status of private activity bonds used to finance project construction. In response to the comment, CDLAC has proposed revisions to the definition to provide flexibility in how TEFRA processes are documented and to allow a designee to execute the required certification. | R in part, A in part |