

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

November 16, 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:

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

BACKGROUND:

CDLAC held a 30-day public comment period and Public Hearings hearing with the Tax Credit Allocation Committee (TCAC) on October 4, 2016 in Oakland, October 5, 2016 in San Diego, October 6, 2016 in Los Angeles and October 7, 2016 in Sacramento for their respective proposed regulations. The Proposed Emergency CDLAC Regulations and Public Comment Matrix are attached.

CDLAC will submit, if approved by Committee, a request for emergency approval of the proposed regulation changes to the Office of Administrative Law on December 2, 2016 with an anticipated approval and adoption date of December 12, 2016.

The proposed regulations will ensure there are baseline post-issuance compliance standards; implement allocation limit ceilings to place a cap on high-cost projects; regulate cash flow-based bond debt; and continue coordination with federal housing partners to ensure HUD projects are successful.

The objectives of these Proposed Regulations are to ensure compliance with state and federal law in a fair, flexible and streamlined manner so applicants may take full advantage of all CDLAC programs. The following are the proposed revisions to the CDLAC Regulations:

PROPOSED REVISIONS

Forms to be Incorporated by Reference

Revision of “Annual Applicant Public Benefits and Ongoing Compliance Self-Certification” Form (incorporated by reference)

Necessity: The form has been expanded to include specific questions for the Issuer that CDLAC has determined as essential to the ongoing monitoring of the program. Additional questions regarding the status of the project have been added to ensure that CDLAC has the most current information regarding the status of the project on record. This will ensure that CDLAC is kept abreast on any material changes to the project, the project’s ownership structure, etc. The revised date of the Certification form will be updated to “11-16-16” to ensure that only the most recent edition of the form is used for compliance verification.

“Certificate of Completion for Qualified Residential Rental Projects”

Necessity: This form is being newly introduced by CDLAC. The purpose of the form to capture data regarding the completion of multifamily projects that receive allocation. Upon completion of a residential project, sponsors use the form to certify that all work on the project was substantially completed and the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer’s signature indicates that the cost of the bond issuance was equal to or less than 2% of the bond proceeds issued, as required for funding. This form will also capture the commencement of the Qualified Project Period, the date from which CDLAC’s rent and income restrictions will

commence. CDLAC understands several Applicants already utilize a similar form or forms to capture this information so unlike the Certification of Compliance form, the use of this form will be optional. However, the requirement that the Applicant collect the information contained in the form will be mandatory.

“Certificate of Completion for Non-Qualified Residential Rental Projects”

Necessity: This form is being newly introduced by CDLAC. The purpose of the form to capture data regarding the completion of multifamily projects that receive allocation. Upon completion of a non-residential project, sponsors use the form to certify that all work on the project was substantially completed and the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer’s signature indicates that the cost of the bond issuance was equal to or less than 2% of the bond proceeds issued, as required for funding. CDLAC understands several Applicants already utilize a similar form or forms to capture this information so unlike the Certification of Compliance form, the use of this form will be optional. However, the requirement that the Applicant collect the information contained in the form will be mandatory.

“Certification of Compliance I” Form (incorporated by reference)

Necessity: The proposed revision changes the form name from Certification of Compliance to Certification of Compliance I to accommodate the creation of the newly proposed form, Certification of Compliance II. The revised date of the Certification form will be updated to “11-16-16” to ensure that only the most recent edition of the form is used for compliance verification.

“Certification of Compliance II for Qualified Residential Rental Projects” Form (incorporated by reference)

Necessity: The proposed form requires an Applicant/Issuer awarded allocation from 2017 forward to retain the completed Certification of Compliance II form on file for a period of three years in place of the Certification of Compliance (12-15-15). A more in-depth list of questions has been incorporated in the Certification of Compliance II to ensure that the Project Sponsor is reporting relevant changes in the project or program to the Applicant. CDLAC has discovered through various communications with the Applicant community that there is currently only limited information provided regularly by the projects sponsors to project Issuers concerning Project/Program changes. For those that do not have an existing structure currently in place, this form will assist in establishing a standard for reporting. CDLAC understands several Applicants already utilize a similar form or forms to capture this information. Therefore, unlike the Certification of Compliance form, the use of this form will be optional. However, the requirement that the Applicant collect the information contained in the form will be mandatory. CDLAC will conduct an annual audit requesting a sample of each Applicant’s collected Compliance Certification II forms or equivalent forms to ensure that this requirement is adhered to.

“Certification of Compliance II for Non-Qualified Residential Rental Projects” Form (incorporated by reference)

Necessity: The proposed form requires an Applicant/Issuer that is awarded allocation from 2017 forward to retain the Certification of Compliance II form for a period of three years in place of the Certification of Compliance (12-15-15). Note: A more in-depth list of questions have been incorporated in the Certification of Compliance II to ensure that the Project Sponsor is reporting relevant changes in the project or program to the Applicant. CDLAC has discovered through various communications with the Applicant community that there is currently only limited information provided regularly concerning Project/Program changes. For those that do not have an existing reporting structure currently in place, this form will assist in establishing a standard for reporting. CDLAC understands several Applicants already utilize a similar form or forms to capture this information. Therefore, unlike the Certification of Compliance form, the use of this form will be optional. However, the requirement that the Applicant collect the information contained in the form will be mandatory. CDLAC will conduct an annual audit requesting a sample of each Applicant’s collected Compliance Certification II or equivalent forms to ensure that this requirement is adhered to.

“Report of Action”

(Incorporated by reference)

Necessity: Changes made to correspond with existing or proposed regulations.

“Report of Action”

(Incorporated by reference)

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“Standard QRRP Application COMPETITIVE Application”

Necessity: Administrative changes have been proposed to this document to bring it in compliance with existing and proposed regulations. Changes include updated references to applicable sections of the regulations, as well as addition or deletion of language to clarify questions concerning compliance, additional private placement purchasers, bond issue information, construction costs, the federal bond election of Area Median Income and any proposed rental subsidy. In the Documents Checklist, changes include a change to the filing fee from the current \$600 to \$1,200, TEFRA noticing, and HAP contract-related information, if applicable. In Attachment V-2: Sustainable Methods Certification, Energy Efficiency Certification, we propose removal of “New Construction/Adaptive Reuse” as this portion applies to rehabilitation as well as new construction. See TCAC regulations Section 10325(c)(6)(C). Inserted the Performance Deposit Certification Form immediately following the Application Documents Checklist for the convenience of applicants.

“Standard QRRP Application NON-COMPETITIVE Application”

Necessity: Administrative changes have been proposed to this form to bring it in compliance with existing and proposed regulations. Changes include updated references to applicable sections of the regulations, as well as addition or deletion of language to clarify questions concerning compliance, additional private placement purchasers, bond issue information, construction costs, the federal bond election of Area Median Income and any proposed rental subsidy. In the Documents Checklist, changes include a change to the filing fee from the current \$600 to \$1,200, TEFRA noticing, and HAP contract-related information, if applicable. In Attachment V-2: Sustainable Methods Certification, Energy Efficiency Certification, we propose removal of “New Construction/Adaptive Reuse” as this portion applies to rehabilitation as well as new construction. See TCAC regulations Section 10325(c)(6)(C). Inserted the Performance Deposit Certification Form immediately following the Application Documents Checklist for the convenience of applicants.

“Universal Application Competitive Application”

Necessity: Administrative changes have been proposed to this form to bring it in compliance with existing and proposed regulations. Changes include updated references to applicable sections of the regulations, as well as the addition or deletion of language to clarify questions concerning compliance, additional private placement purchasers and bond issuance information. In Attachment 27: Sustainable Methods Certification, Energy Efficiency Certification, CDLAC propose removal of “New Construction/Adaptive Reuse” as this portion applies to rehabilitation as well as new construction. See TCAC regulations Section 10325(c)(6)(C).

“Universal Application Non-Competitive Application”

Necessity: Administrative changes have been proposed to this form to bring it in compliance with existing and proposed regulations. Changes include updated references to applicable sections of the regulations, as well as the addition or deletion of language to clarify questions concerning compliance, additional private placement purchasers and bond issuance information. In Attachment 27: Sustainable Methods Certification, Energy Efficiency Certification, CDLAC propose removal of “New Construction/Adaptive Reuse” as this portion applies to Rehabilitation as well as new construction. See TCAC regulations Section 10325(c)(6)(C).

“Industrial Development Bond Application”

Necessity: Administrative changes have been proposed to this form to bring it in compliance with existing regulations. Historically, CIDFAC disbursed CDLAC allocation for all Industrial Development Bond projects. In the future, state Issuers will apply to CDLAC for allocation, per STO counsel while all other Issuers will apply directly to CIDFAC. The application needs to meet the needs of both CIDFAC and CDLAC resulting in technical changes to the application.

Chapter 1, Article 1, Section 5000. Definitions

“Bond Issuance and Post Issuance Compliance Policies”

Necessity: “Bond Issuance and Post Issuance Compliance Policies” means policies established by an Applicant to guide its process of issuing private activity bonds and to ensure its post-issuance compliance. This proposed revision defines a new requirement under Section 5031(c) in which all Applicants would be required to submit written Bond Issuance and Compliance Policies to CDLAC to be considered for an allocation. Written policies would address how an Applicant’s related risks are to be managed and would describe how it would comply with applicable law and regulation.

The items to be included in the Applicant’s written policies include, for example, an Applicant’s inability to satisfy affordability requirements for the period prescribed by regulation and by a CDLAC Resolution, whether or not issuance or post- compliance monitoring will be handled in house or through a contractor, any special local requirements that might be included in the program but not required by federal or state law.

“Cash Flow Permanent Bonds”

Necessity: “Cash Flow Permanent Bonds” means a bond where the identified repayment source is based on cash flow availability in the form of residual receipts payments when such a bond is used to finance more than 5% of the total development costs. The proposed revision differentiates cash flow bonds that are subject to repayment based on available cash flow as opposed to standard permanent bonds that are subject to repayment according to an established amortization schedule and which meet CDLAC’s debt service coverage ratio requirements, or do not meet those requirements but finance less than 5% of the total development costs. .

“Federally Bond-Restricted Unit”

Necessity: A Federally Bond-Restricted Unit is restricted pursuant to 26 U.S.C. Section 142(d)(1)(A) and (B). Subsection (B) defines requirements for a project to qualify as a “qualified residential rental project” eligible to apply for an exempt facility bond. A minimum of 20% of units are occupied by individuals with a maximum of 50% of area median gross income, or at least 40% of units are occupied by individuals with a maximum of 60% of area median gross income. To provide assurance that CDLAC is providing allocation for the issuance of bonds for qualifying residential units, and that the units remain qualified for the required period of time, CDLAC is introducing regulations to mitigate against potential for non-compliance. The term “Federally Bond-Restricted Unit” is introduced in two proposed subsections: Section 5144(c) would require Applicants to review management files for compliance with Federally Bond-Restricted Units. In addition, under proposed subsection 5220(e), these units would need to be identified in the Bond Regulatory Agreement if Cash Flow Permanent Bonds finance project costs.

The proposed revision introduces the term “Federally Bond-Restricted Unit” because it is used in other sections of this Regulation that are also being revised (Section 5144(c) and 5220(e)). The term refers to a residential rental property unit that is restricted pursuant to 26 U.S.C. Section 142 (d)(1)(A) and (B).

“Qualified Residential Rental Project (QRRP)”

Necessity: The proposed revision adds the acronym “QRRP” to the existing definition to provide readers with an efficient text search criterion.

“Regulatory Period and/or Compliance Period”

Necessity: While a regulatory or compliance period is enumerated in the resolution, defining it in regulations memorializes it and provides applicants with information on how long such a period might last. This may facilitate planning for compliance and other maintenance activities with regard to bond funding.

“Standard Permanent Bonds”

Necessity: The proposed revision is the antonym of cash flow permanent bonds and defines and clarifies the nature of standard permanent bonds as bonds that meet the CDLAC debt service coverage requirements and are

not subject to a repayment schedule based on cash flow availability or do not exceed 5% of the total development costs.

“TEFRA Resolution (Tax Equity and Fiscal Responsibility Act of 1982)”

Necessity: Added and spelled out definition of TEFRA to provide a more complete description of the acronym TEFRA. The proposed revision expands the acronym TEFRA for reader reference.

“Undesignated Reserve Pool” (Pool) means a reserve of the State Ceiling established by the Committee for which there is no demand at the time the Pool is established.

Necessity: This definition was added to clarify a term in Article 2, Eligibility Requirements, Section 5271 Allocation Method. Specifically, in case a request exceeds an Applicant’s Fair Share, funding may be provided if allocation is available in the Undesignated Reserve Pool.

Chapter 1, Article 3, Section 5020. Determination of State Ceiling Pools

Necessity: The proposed addition of subdivision (h) would require the Committee to announce amount of allocation available for Beginning Farmer Projects. This is intended to facilitate financial planning for applicants of Beginning Farmer Projects. Specifically, as soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee will: (h) Determine and announce what amount expressed, both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Beginning Farmer Projects.

Chapter 1, Article 3, Section 5020. Determination of State Ceiling Pools

Necessity: The proposed addition of subdivision (i) would require the Committee to announce the amount of allocation available for Home Improvement and Rehabilitation Programs. This is intended to facilitate financial planning for applicants considering Home Improvement and Rehabilitation Programs. Specifically, as soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee will: (h) Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Home Improvement and Rehabilitation Programs.

Chapter 1, Article 3, Section 5020. Determination of State Ceiling Pools

Necessity: The proposed addition of subdivision (j) would specify that the Committee shall sub-allocate resources to any particular pool in a manner that is consistent with maximizing public benefits associated with the use of allocation. Such a provision allows the Committee to judiciously fulfill its mission to ensure its bond allocation is fully and efficiently used to finance projects and programs while providing maximum public benefit and contributing to the economic vitality of California. Depending on a variety of external factors, like the economy, the demand for one pool may wax while another one wanes. Therefore, the Committee may determine an efficient use of resources would be to sub-allocate funds from one pool to another in a given cycle.

Chapter 1, Article 4, Section 5031(a). Eligible Applicants

Necessity: The proposed revision to subdivision 5031(a) clarifies that a JPA may not apply for bond allocation to develop projects outside the JPA member’s jurisdictional boundaries. The proposed revision reiterates CDLAC’s current definition of Applicant in subdivision 5000. The purpose of the revision is to help ensure that the Issuers understand CDLAC’s issuance policies.

Chapter 1, Article 4, Section 5031(c). Eligible Applicants

Necessity: The proposed revision to subdivision 5031(c) requiring Applicants to submit written bond issuance and post issuance compliance policies is to ensure Issuers have processes and procedures in place that are approved by the appropriate governing body. QRRP programs have the additional requirement that counsel review said policies given the long-term obligations associated with multifamily post issuance compliance.

Furthermore, the policies will memorialize that the entity did indeed endeavor to issue bonds and will provide a record of such activity. During CDLAC's recent compliance reporting cycles, cases have been identified where the Applicant itself has no record of ever issuing private activity bonds. It is CDLAC's hope that this step will ensure such documentation is in place from this point forward.

Policies must be submitted by new Applicants. Non-active Issuers, who have not received allocation from CDLAC since 2013, must also submit policies with any forthcoming applications. However, CDLAC recognizes the potential administrative burden to Issuers who are active; those who have already received an allocation after January 2013. For this reason, CDLAC is providing a due date of December 31, 2017 for active Issuers. In addition, new Applicants with a project pending for 2017 may request a one-year waiver.

Chapter 1, Article 4, Section 5033. Minimum Application Requirements

Necessity: The proposed revision to subdivision 5033(b)(5)(c) clarifies that a jurisdiction must have approved becoming be a member of the Applicant at or prior to the time the TEFRA Resolution is adopted. This change provides context to the clarification made in Subdivision 5031 and provides specificity as to what constitutes acceptable jurisdictional membership for an Applicant.

Chapter 1, Article 5, Section 5050. Performance Deposit Requirements

Necessity: The proposed revision adds to the list of acceptable evidence of a performance deposit. A letter of credit from a Commercial Bank with an A category of higher credit rating, naming CDLAC as the beneficiary, would be acceptable under the proposed revision. This change in regulation would mitigate risk to CDLAC while allowing applicants another option besides a check or certified funds.

Chapter 1, Article 5, Section 5051. Release of Performance Deposit

Necessity: The proposed revision to subdivision 5051(a) requires a digital copy of the recorded Bond Regulatory Agreement be sent to Committee. This will enable CDLAC to catalog all Bond Regulatory Agreements and will facilitate the review of the agreements to ensure consistency with the CDLAC resolution and would provide immediate opportunity to take formal action if inconsistencies should arise.

Chapter 1, Article 5, Section 5054. Filing Fees

Necessity: The purpose of this proposed revision to subdivision 5054(a) is to align the non-refundable filing fees with CDLAC's actual cost associated with application evaluation. Currently, Tax Credit Allocation Committee (TCAC) charges \$1200 to review a TCAC application, which is similar in nature to the review CDLAC conducts. The proposed revision to 5054(b) is to clarify that the supplemental awards filing fee will remain at \$600 as much of the evaluation work will have been performed previously. The proposed renumbering of items (b) and (c) to (c) and (d), respectively, is to allow for the insertion of the above referenced language describing the filing fee for supplemental awards. The existing policy of subtracting the initial portion of the filing fee from the CDLAC total filing fee (post issuance) and the calculation for the performance deposit will remain unchanged.

Chapter 1, Article 6, Section 5061. Credit Enhanced Sales

Necessity: The proposed revision to subdivision 5061(d) is to acknowledge that other State Agencies, in addition to the California Housing Finance Authority, may provide Credit Enhancement, and that related applicable application requirements apply to said State Agencies.

Chapter 1, Article 6, Section 5062(a). Private Placement Sales

Necessity: The proposed revision to subdivision 5062(a) is to ensure the applicant does not assume conditions have been met from (a) only, but along with (b).

Chapter 1, Article 6, Section 5062(b). Private Placement Sales

Necessity: Proposed revision to subdivision 5062(b) applies to all applications submitted after December 31, 2016 so that projects already submitted would not be subject to inconsistent regulations post-submittal. It describes forms of financing occurring on a more frequent basis and associated with Cash Flow Permanent Bonds. Given Cash Flow Permanent bonds do not at the time of the CDLAC allocation meet CDLAC's debt service ratio requirements, CDLAC is placing additional safeguards to ensure a certain level of sophistication among bond purchasers. CDLAC views this as a preventive measure to mitigate related risk. The additional provisions mimic regulations placed on bonds that are not credit enhanced and that are rated BBB, as described in subsection 5064.

Chapter 1, Article 6, Section 5063. Unenhanced Bond Sales with an A Category or Higher Rating, including sales where cash is the collateral

Necessity: The proposed revision to the title of Section 5063 reflects an increasingly common form of collateral, cash, for which the minimum Bond sale requirements apply.

Chapter 1, Article 8, Section 5107. State Issuer Single Family Programs

Necessity: The proposed revision categorizes all state Issuers that operate single family programs similarly by including CalHFA. The change recognizes that all state Issuers operating single family housing programs should be afforded the same program flexibility regarding issuance and conversion. Because state Issuers serve a statewide population, they are regularly awarded large sums of allocation at a single time. As a result, additional flexibility related to issuance (for Mortgage Revenue Bonds) and conversion (for Mortgage Credit Certificates) is required to maximize federal usage periods.

Chapter 1, Article 11, Section 5144(a). Annual Applicant Public Benefits and On-going Compliance Self Certification

Necessity: The proposed revision to Section 5144 (a) narrows compliance monitoring to the scope of applicable Resolution terms. The purpose of the change is to communicate to Sponsors that they are responsible to report annually only on the applicable provisions of the CDLAC resolution, not all CDLAC Resolution terms. This change is being made in conjunction with the introduction of new compliance forms in subsection 5145 (a). The proposed revision also provides CDLAC a means to enforce compliance with a performance remedy or disqualification from the program. The purpose of the inclusion of disqualification is to encourage Applicants to follow through on compliance requirements. Wording which had been at the end of (a) is proposed to move to the second and third sentences. Numbering has been added to help the reader differentiate between regulations concerning projects receiving allocation prior to, or after December 31, 2016. Finally, language is proposed to describe what terminates the requirement for self-certification.

Chapter 1, Article 11, Section 5144(b). Annual Applicant Public Benefits and On-going Compliance Self Certification

Necessity: The proposed addition of Section 5144(b) specifies a Sponsor documentation protocol and seeks to ensure that Sponsors are relying on applicable standards outlined in the resolution to verify that incomes are being reviewed and, accordingly, that rents are being charged appropriately. These standards are consistent with the standard TCAC has established. A line was added to clarify when income verification documentation may be purged. To reduce administrative burden, the verification exercise was reduced from annually to every three years.

Chapter 1, Article 11, Section 5144(c). Annual Applicant Public Benefits and On-going Compliance Self Certification

Necessity: The proposed addition of Section 5144 (c) specifies an Issuer compliance protocol. Specifically, Applicants must demonstrate units meet the "20-50" test, or the "40-60" test required by Federally Bond-Restricted Units. The proposal is to ensure bond Issuers are performing due diligence and are relying on appropriate income and rental standards. Currently CDLAC does not have a CDLAC-imposed standard for

ongoing compliance. This proposed system relies heavily on the compliance system already in place at TCAC, which includes on-site file and physical inspections every three years. CDLAC is tasked with reviewing TCAC's compliance policies and procedures and making necessary changes to CDLAC's policies to ensure consistency. Given TCAC's protocol, and that the majority of projects utilize TCAC resources, CDLAC proposes that Applicants perform audits of 20% of the tenant initial occupancy files, including lease, every three years to ensure compliance with the long-term CDLAC obligations of the Federally Bond-Restricted units. Proposed regulations also specify the length for which documentation of review of income eligibility, and source income documentation, must be retained. Under the proposal, units must be identified in TCAC's Project Status Report (PSR) to prevent "cherry-picking" for review.

Chapter 1, Article 11, Section 5144(d). Annual Applicant Public Benefits and On-going Compliance Self Certification

Necessity: The proposed Section 5144 (d) is specifically for projects not applying to TCAC. The proposal provides additional safeguards as projects not subject to a TCAC regulatory agreement have shown the greatest risk of non-compliance. Given that TCAC will not make annual site visits nor check files, the Applicant or assignee will be responsible for providing this oversight. Applicants for non-TCAC projects will have three compliance options, to be approved by the CDLAC Executive Director and included in the Committee Resolution. Each option will ensure a review of 20% of Federally Bond-Restricted Units every three years. Applicants with demonstrated robust policies will be authorized to conduct their own reviews similar to the proposed Issuer compliance protocol described above for TCAC projects. Applicants without this capacity may enter into an agreement with a qualified third party compliance firm, or with CDLAC or its designee.

Chapter 1, Article 11, Section 5145(a). Certification of Compliance

Necessity: This section has been relocated from 5220(a) to better align with the other subsection. The proposed revisions to subsection (a) clarify when and how a Certification of Compliance I shall be utilized and for what period of time.

Chapter 1, Article 11, Section 5145(b). Certification of Compliance

Necessity: The purpose of the proposed new section is to introduce the concept of a QRRP and Non-QRRP Certification of Compliance II and QRRP and Non-QRRP Certification of Completion, and which projects will require them. The new forms specify what information CDLAC would like Applicants to receive from the Sponsors each year. These forms are directly connected with the change made in subsection 5144(a) and constitute applicable CDLAC Resolution information. In recognition of comparable forms an Applicant may already be using for internal purposes, provisions are included that the Executive Director may accept alternate compliance forms in lieu of those created by CDLAC. The proposed section specifies that Project Sponsors shall be held accountable for submitting these forms to Applicants.

Chapter 1, Article 11, Section 5145(c.) Certification of Compliance

Necessity: This section has been relocated from 5220(b) to provide better alignment with the other subsection.

Chapter 1, Article 11, Section 5145(d). Certification of Compliance

Necessity: The proposed new subdivision (d) requires Non-QRRP Applicants to designate CDLAC to receive notice of changes in use and circumstances of Bond Default and Qualifying Bond Default. This requirement will help CDLAC assess related risk.

Chapter 1, Article 11 Section 5146. Disqualification

This has been relocated from Section 5221.

Necessity: The Section outlines reasons for disqualification and clarifies that it pertains to all pools, not only QRRP. Section 5221 falls under Chapter 2, Qualified Residential Rental Projects. This provision historically has been applicable only to QRRP projects, but its relocation is now required as the provision pertains more broadly.

In order to ensure applicants to all pools review the relevant reasons for disqualification, the Section was relocated.

Chapter 2, Article 1, Section 5170. Definitions

“Hard Costs”

Necessity: Provides a definition of “Hard Costs” acceptable to CDLAC. This definition is consistent with the current TCAC definition. While this is a general construction term, a variety of variables may or may not be included. This definition provides clarity.

“HUD Development Acknowledgement Letter”

Necessity: Added the descriptive “Development” to separate this definition from another defined HUD letter.

“Other Restricted Unit”

Necessity: The phrase “Federally Bond-Restricted Unit” has been introduced in the current proposed regulations. Therefore, it is necessary to define units that are not Federally Bond-Restricted Units but are affordable and identified in the CDLAC resolution as being subject to the long-term rent and income restrictions.

“Sustainable Building Methods”

Necessity: The definition of Sustainable Building Methods will be struck from the proposed regulations. The definition is outdated, describing requirements from years past. In addition, the phrase “Sustainable Building Methods” does not appear in the regulations, and therefore does not need to be defined.

“Table 1”

Necessity: Definition of Table 1 was moved to follow all definitions beginning with “S,” but before those beginning with “U.” The proposed changes correct this drafting error.

“Table 2”

Necessity: No change was made to the definition. However, it was placed in the incorrect alphabetical order, before “State of California.” Definition of Table 1 was moved to follow all definitions beginning with “S,” but before those beginning with “U.” The proposed changes correct this drafting error.

Chapter 2, Article 3, Section 5191. Income and Rent Restrictions

Necessity: The proposed revision to Section 5191 (a) adds to the list of rent restricted units not subject to the requirement of having 10% of units with Gross Rents no greater than 50% of AMI. The additions are acquisition rehabilitation projects already subject to a Residential Rental Regulatory Agreement or a federal, state, or local operating or rental subsidy agreement. The purpose of the proposed revision is to lift the general distribution requirement for certain projects and units where such a requirement would either require tenant relocation or forgone rental income.

Other additions to the regulation clarify that rents are “proposed tenant paid,” and that income targeting is considered a criterion. CDLAC is only concerned with the amount of rent paid by a tenant, not the total amount of rent collected by a landlord originating from a federal, state or local operating or rental subsidy agreement. This change is being made in tandem with TCAC.

Chapter 2, Article 3, Section 5192(a). Minimum Term of Restrictions

Necessity: The proposed revision to Section 5192 (a) specifies CDLAC standards for income and rent restrictions to clarify that the 30- and/or 55-year affordability term applies to all units in a project and not just the 10% of the units restricted at 50% AMI. The later change expands the definition of CDLAC Qualified Project Period to include a special provision that exists for rehabilitation projects articulated in Revenue Procedure 2004-39

pertaining to Qualified Residential Rental Project in Section 142(d) of the Internal Revenue Code. The CDLAC Qualified Project Period is used as the starting point for the affordability term.

Chapter 2, Article 3, Section 5192(c). Minimum Term of Restrictions

Necessity: The proposed revision to Section 5192 (c) allows the fifty-five (55) year minimum term of restriction to begin upon commencement of the Qualified Project Period.

Chapter 2, Article 3, Section 5194. Project Costs

Necessity: The proposed revision to Section 5194 is to raise the limit requiring special consideration by the Committee to \$500,000 in acknowledgement of the cost escalation that has occurred in the recent past, thereby reducing administrative burden caused by an increasing number of applications exceeding the existing limits.

Chapter 2, Article 4, Section 5200. Minimum Requirements

Necessity: The proposed revisions to Section 5200 (e) enhance Market Study requirements for alternative market studies by requiring a current rent roll. In order to ensure compliance with CDLAC policies, a rent roll is to be included with the study. The revisions specify that rents are tenant-paid to facilitate compliance with Section 5191(a). For consistency with existing TCAC regulations, alternative market studies can only be used if proposed income targeting is within 105% of the existing income targeting.

Chapter 2, Article 7, Section 5220(a). Regulatory Compliance

Necessity: Proposed revisions replace the verbiage that was moved to 5145(a). Section 5220(a) describes conditions under which the Regulatory Agreement may terminate. Currently, federal law allows the termination of a regulatory agreement in the event of foreclosure. The drafted provisions ensure that the foreclosure of Cash Flow Permanent Bonds would not facilitate a valid termination before the CDLAC affordability term and the Bond Regulatory Agreement. CDLAC's goal is to encourage capital flows to projects while at the same time protecting the regulatory restrictions associated with its allocated resource.

Chapter 2, Article 7, Section 5220(b). Regulatory Compliance

Necessity: The proposed subdivision replaces the verbiage moved to 5145(c). 5220(b) applies only to projects that are financed with Cash Flow Permanent Bonds and aims to protect the TCAC regulatory restriction in place for TCAC financed projects. TCAC's regulatory restrictions are subordinate to the CDLAC requirements, and to the extent a bond foreclosure occurs, the TCAC regulatory agreement would likely be terminated. Given that at the time of allocation Cash Flow Permanent Bonds do not meet CDLAC's debt service ratio requirements, CDLAC is attempting to mitigate risk by ensuring all affordable units are memorialized in the Bond Regulatory Agreement, protected from foreclosure in subsection 5200(a). Language added would outline assumptions to be included in the Bond Regulatory Agreement, clarifying the assumptions under which the Other Restricted Units will be restricted in the Bond Regulatory Agreement.

Chapter 2, Article 7, Section 5220(c). Regulatory Compliance

Necessity: Some bond regulatory agreements have failed to meet the terms of the CDLAC resolution. By requiring the resolution to be both referenced, and attached to bond regulatory agreements starting in 2017, CDLAC hopes to mitigate any departure of consistency between the CDLAC Resolution and Bond Regulatory Agreements from this point forward. The proposed language will require more specific wording than in the past to protect the income and affordability requirements of the CDLAC Resolution, the responsibility of the Sponsor to report terms in the CDLAC resolution to the Issuer, and designate CDLAC to receive notice in the event of Bond Default or Qualifying Bond Default, and termination of the Bond Regulatory Agreement.

Chapter 2, Article 7, Section 5221. Disqualification

Necessity: It is proposed that the section on reasons an application may be disqualified be moved to Chapter 1, General Provisions. As it stands, this section is under Chapter 2, Qualified Residential Rental Projects. However,

projects other than residential rentals may be disqualified for the same reasons. Therefore, the section on Disqualification more accurately belongs in the section on General Provisions for all pools.

Chapter 2, Article 8, Section 5230(k). Evaluation Criteria

Necessity: The proposed revisions to Section 5230(k), which describes evaluation criteria of Sustainable Methods, brings energy efficiency evaluation in alignment with those of TCAC. This section refers to methods of irrigation, nonsmoking, parking policies and building standards to increase energy efficiency. The revisions simplify this section for the reader, reducing the need to cross-reference between TCAC and CDLAC regulations in this matter. TCAC has retained an energy consultant and is updating its regulations in technical detail. To reduce the risk of conflicting regulations, CDLAC will reference TCAC regulations for the majority of this section. However, CDLAC wishes to offer applicants additional opportunities for earning points in this category. For this reason, some subsections include language from CDLAC.

Chapter 2, Article 8, Section 5233. Allocation Limits

Necessity: The proposed new section delineates per unit allocation limits for the general and rural pools. Limits are by number of bedrooms. Over the past two years CDLAC and TCAC have observed tremendous escalation in per-unit costs. As a result, a joint CDLAC/TCAC task force was established to address the circumstance. The per-unit limits resulted from collaboration that occurred in that working group and complements a list of cost reduction changes being proposed by TCAC. This concept does not limit costs outright but does limit the amount of tax-exempt bonds, and thus 4% tax credits, that would be available to high-cost projects. Because bonds must finance at least 50% of aggregate basis (land plus depreciable assets), the effective limit on costs would be approximately twice the CDLAC-identified limits.

Chapter 2, Article 10, Section 5250. Application Requirements

Necessity: The proposed revisions to Section 5250 (a)(4)(A) clarify that “rents” means the tenant-paid portion and includes income targeting as part of the provisions. The changes made are consistent with the changes made in subsection 5191(b) and 5200(a).

Chapter 2, Article 11, Section 5255. Application Requirements

Necessity: The proposed change is to eliminate one process and replace it with another. The process to be eliminated is submission of a HUD Acknowledgement Letter no later than four (4) days before the first public posting of Committee recommendations. This created timing concerns with processing applications, and the option to use a HUD Acknowledgement Letter is now an option for all applicants. The addition of new wording for subsection (c) would require all projects requesting an assignment and assumption of an existing HAP Agreement to have submitted their application to HUD by the CDLAC application date. A number of recent projects have encountered an unfortunate timing situation where assignment and assumption of an existing HAP agreement was not approved within the established CDLAC issuance timeframe. Without the approval, these projects were unable to complete their financing and ultimately were unable to issue bonds without an extension of time. This regulation is to facilitate timely approval by HUD by requiring an earlier, rather than later, request to HUD.

Chapter 2, Article 12, Section 5258. Eligibility Retention

Necessity: The proposed revisions add “Qualified Census Tract (QCT) to Difficult Development Areas (DDA) to be inclusive of QCT parameters.

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 the proposed regulations. 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 on **December 14, 2016** for additional consideration. Should staff receive only minor or no comments, then the emergency rulemaking package will be submitted to OAL immediately following the 5-day pre-notice public comment period. A 5-day public comment period will commence on the day of submittal, with possible enactment of the regulations within 5 days thereafter. If approved as scheduled, the Emergency Regulations would be in-place in time for the **March 15, 2017** Application Round and the Permanent Regulations would be in place in time for the **July 19, 2017** 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: Felicity Wood

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

Chapter 1. General Provisions

Article 1. Definitions

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

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

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

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

“Annual Applicant Public Benefits and Ongoing Compliance Self-Certification (12-15-15)”, hereby incorporated by reference, means the document 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 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.

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

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

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

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

“Bond Issuance and Post Issuance Compliance Policies” means policies established by an Applicant to guide the process of issuing private activity bonds and ensuring post-issuance compliance including but not limited to a description of the fee structure, application and approval process (including TEFRA), threshold eligibility criteria for applicants and projects, long term regulatory requirements (if any), and monitoring practices.

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

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

“Cash Flow Permanent Bonds” mean bonds where the identified payment source is based on cash flow availability in the form of residual payments and that are issued for the purposes of providing permanent financing that (i) does not meet CDLAC’s Debt Service Coverage Ratio requirement in Section 5193 and that, (ii) together with all other Bonds not meeting CDLAC’s Debt Service Coverage Ratio requirements in Section 5193 (if any), exceed 5% of the total project cost.

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

“Certificate of Completion for Qualified Residential Rental Projects” submitted by the Project Sponsor of a Qualified Residential Rental Project, and certifies that all work on the Project was substantially completed, along with the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer’s signature indicates that the cost of the bond issuance was equal to or less than 2% of the bond proceeds issued.

“Certificate of Completion for Non-Qualified Residential Rental Projects” submitted by the Project Sponsor of a Non-Qualified Residential Rental Project, certifies that all work on the Project was substantially completed, along with the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer’s signature indicates that the cost of the bond issuance was equal to or less than 2% of the bond proceeds issued.

“Certification of Compliance I (12-15-15)”, 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.

“Certification of Compliance II for Qualified Residential Rental Projects” is a form for Applicant/Issuers awarded allocation in 2017 forward. Applicant/Issuers retain the Certification form for a period of three years in place of the Certification of Compliance I (11-19-16) to ensure that the Project Sponsor is reporting all relevant compliance and possible changes to the project or program to the Applicant.

“Certification of Compliance II for Non-Qualified Residential Rental Projects” is a form for Applicant/Issuers awarded allocation in 2017 forward. Applicant/Issuers retain the Certification form for a period of three years in place of the Certification of Compliance I (11-19-16) to ensure that the Project Sponsor is reporting all relevant compliance and possible changes to the project or program to the Applicant.

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

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

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

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

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

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

“Credit Enhancer” means the party providing Credit Enhancement.

“CTCAC” means the California Tax Credit Allocation Committee.

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

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

- A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department’s most recent annual average for sub-county areas.
- A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.
- A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place such as a census tract or tracts, smaller geographic areas will be used.

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

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

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

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

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

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

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

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

“Federally Bond-Restricted Units” are Project units that are restricted pursuant to 26 U.S.C. Section 142 (d)(1)(A) and (B)

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

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

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

“Issuer” means an entity empowered to issue Bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Regulatory Period and/or Compliance Period” means for projects awarded allocation after December 31, 2016 a period of time enumerated in the CDLAC resolution whereby Annual Applicant Public Benefits and On-going Compliance Self Certification is required to be submitted. For QRRP projects the period of time will be consistent with Section 5192, for IDBs the longer of project completion or 2 years after the project completion if a job creation election is made, and for all other programs when the project is completed or allocation has been utilized.

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

- The brothers, sisters, spouse, ancestors, and direct descendants of a person;
- A person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- Two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which stock is held by the same persons or entities for:
 - At least 50% of the total combined voting power of all classes that can vote, or;
 - At least 50% of the total value of shares of all classes of stock of each of the corporations, or;
 - At least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation.
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;
- There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.
- A grantor and fiduciary of any trust;
- A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- A fiduciary of a trust and a beneficiary of that trust;
- A fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;

- A person or organization and an organization that is tax-exempt under 26 U.S.C. section 501(c)(3) or (4) and that is affiliated with or controlled by that person or the person's family members, as provided in the first bullet of this section, or by that organization;
- A corporation and a partnership or joint venture if the same persons own more than:
 - 50% in value of the outstanding stock of the corporation; and
 - 50% of the capital interest, or the profits' interest, in the partnership or joint venture;
- One S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
- An S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;
- A partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
- Two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

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

"Report of Action Taken for Bonds" means the specific Report of Action Taken due to the Committee following the use of Allocation for Qualified Private Activity Bonds (excluding RZBs or QECBs) titled "Report of Action Taken Regarding the Issuance of Private Activity Bonds" (revised 7-22-14), which is hereby incorporated by reference.

"Report of Action Taken for Bonds (Carryforward)" means the specific Report of Action Taken due to the Committee following the use and/or carryforward of Allocation for Qualified Private Activity Bonds (excluding RZBs or QECBs) titled "Report of Action Taken Regarding the Making of a Carryforward Election and the Issuance of Private Activity Bonds" (revised 7-22-14), which is hereby incorporated by reference.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Standard Permanent Bonds” means Bonds issued for the purposes of providing permanent project financing which (i) meet CDLAC’s Debt Service Coverage Ratio requirement in Section 5193 or (ii) are not Cash Flow Permanent Bonds.

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

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

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

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

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

“TEFRA Resolution (Tax Equity and Fiscal Responsibility Act of 1982)” means an approval by the applicable elected representative of the governmental unit having jurisdiction over the proposed Project, as required by 26 U.S.C. section 147(f), that is documented and includes a certification executed by the applicable elected representative or their designee.

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

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

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

“Undesignated Reserve Pool” (Pool) means a reserve of the State Ceiling established by the Committee for which there is no demand at the time the Pool is established.

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

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

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

Article 2. State Ceiling and Application Process

Section 5010. Determination of State Ceiling, Competitiveness, and Minimum Points. (a) As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee shall determine and announce the State Ceiling and the portion of the State Ceiling that will be available for each of the State Ceiling Pools as set forth in article 3 of this chapter.

(b) Pursuant to subdivision (a) of this section, the Committee shall determine and announce the establishment of either an Open Application Process or a Competitive Application Process, or both, for each State Ceiling Pool. The Committee shall determine which process is best for each program pool based on factors including, but not limited to, the amount of the State Ceiling available to the pool and the history of Applications for allocations from each pool.

(c) Pursuant to subdivision (a) and (b) of this section, the Committee shall establish a minimum point threshold for the General, Rural, and Mixed Income Project Pools as determined in section 5020.

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

Article 3. State Ceiling Pools

Section 5020. Determination of State Ceiling Pools. As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee will:

(a) Determine and announce what amount, expressed both as a percentage and as a dollar amount of the State Ceiling, shall be available for Allocation during the year and in each Allocation Round to Qualified Residential Rental Projects from the Qualified Residential Rental Project Pool.

(1) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage (not to exceed twenty-five percent (25%)) of the Qualified Residential Rental Project Pool shall be reserved in a Mixed Income Pool to be available for allocation to Mixed Income Projects, and determine what amount, if any, shall be available in each Allocation Round.

(2) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage (not to exceed ten percent (10%)) of the Qualified Residential Rental Project Pool shall be reserved in a Rural Project Pool to be available for allocation to Rural Projects and determine what amount, if any, shall be available in each Allocation Round.

(b) Determine and announce what amount, expressed both as a percentage and as a dollar amount of the State Ceiling, shall be available for allocation during the year and in each Allocation Round to Single Family Housing Programs.

(1) Subsequent to the determination made pursuant to subdivision (b) of this section, determine and announce what portion of the Single Family Housing Program Pool will be reserved and allocated to state Issuers.

(2) Subsequent to the determination made pursuant to subdivision (b)(1) of this section, the remainder of the Single Family Housing Program Pool will be reserved by county, for Local Issuers. Each county shall receive a proportionate share of the amount reserved for Local Issuers based on the population of the county relative to the state's total population. Populations will be based on data published by the California State Department of Finance Demographics Unit. Where there is more than one Local Issuer in a county, each Local Issuer shall receive a proportionate share of the county's reservation based on the population of the jurisdictions served by an Issuer relative to the county's total population, or as agreed upon by the participating Local Issuers. Local Issuers may apply independently of the county level Issuer. Any allocation awarded specifically to a Local Issuer shall reduce the amount available for the county level Issuer accordingly.

(c) Subsequent to the determinations made pursuant to subdivision (b) and (b)(1) of this section, determine and announce whether a portion of the Single Family Housing Program Pool, expressed as a dollar amount and as a percentage of the Single Family Housing Pool, shall be reserved in a separate Single Family Housing Program Bonus Pool to be available for allocation by the Committee during the year and in each Allocation Round. The Single Family Housing Program Bonus Pool may be made available for allocation at any Allocation Round subsequent to the first Allocation Round in a given calendar year. The Committee will also designate which Applicants will be eligible for consideration for this pool.

(d) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Extra Credit Teacher Home Purchase Programs.

(e) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Small-Issue Industrial Development Bond Projects.

(f) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Exempt Facility Projects.

(g) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Student Loan Programs.

(h) Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Beginning Farmer Projects.

(i) Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling that shall be available for allocation during the year and in each Allocation Round to Home Improvement and Rehabilitation Programs.

(j) The Committee shall sub-allocate resources to any particular pool in a manner that is consistent with maximizing public benefits associated with the use of allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.82 and 8869.84, Government Code.

Section 5021. Rescheduling of Calendar. Notwithstanding any other provision of this article, the Committee may, at any time, alter the competitiveness of Allocation Rounds, the number of Allocation Rounds, the portion of the State Ceiling that will be available to each type of State Ceiling Pool, or any Program within a Pool in each of the Allocation Rounds, the schedule of the Allocation Rounds and the deadlines for Applicants to submit Applications for consideration based on its finding, at a noticed meeting, that the changes are in the public interest and reasonably necessary to further the purposes for which the Committee was created.

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

Article 4. Application Schedule and Procedures

Section 5030. Announcement of Application Deadlines. Pursuant to article 2 of this chapter, the Committee shall as soon as practical, after the start of the calendar year, give notice of the dates and deadlines to submit Applications for each Allocation Round and whether the Applications will be evaluated pursuant to an Open Application Process or a Competitive Application Process.

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

Section 5031. Eligible Applicants. (a) The following types of entities may file an Application: state or local governmental agency, joint powers authority (JPA) applying for bond allocation for a Project that will be located entirely within the geographical boundaries of one or more of the JPA members (except for a Project described in government code section 6586.5(c)), special district, nonprofit public benefit corporation that issues only student loan Bonds, or any other public agency that is empowered to issue debt ~~may file an Application~~. The Issuer of the Qualified Private Activity Bonds or Mortgage Credit Certificates must be the Applicant.

(b) Where the Applicant is administering a Single Family Housing Program on behalf of one or more jurisdictions, the Applicant must submit the Application to the Committee. The Applicant must also obtain, and provide to the Committee with its Application, a publicly adopted resolution or cooperative agreement from each jurisdiction participating in the Applicant's program that explicitly grant authority to the Applicant to conduct the program in the participant's jurisdiction.

(c) To be eligible to receive CDLAC allocation, all Applicants must submit written Bond Issuance and Post Issuance Compliance Policies for each State Ceiling Pool they request. For QRRP Applicants, these policies must be reviewed by counsel having expertise with the federal and state laws pertaining to the issuance or conversion and post-closing compliance of private activity conduit bonds for consistency with applicable federal and state laws. Such review will be documented via a letter from the respective counsel indicating the review has occurred. Additionally, for all Applicants, the policies must be accompanied by a resolution signed by the appropriate governing body formally adopting the policies. If the governing body has delegated approval authority on such matters to the organization's Executive Director, Housing Director or Finance Director, approval by the delegated individuals will suffice. To the extent contractors will be providing services on behalf of an Applicant, the

policies should clarify the relationship between the contractor and the Applicant and what, if any, rights the contractor has to income and obligations generated from the issuance activity. CDLAC will review these policies to ensure the legal review has occurred, appropriate approval documentation is in place and for consistency with the CDLAC regulations. CDLAC will document their formal approval. This requirement will apply immediately to all Applicants who have not received allocation from CDLAC since January of 2013 and for new Applicants. Applicants having received an allocation of bonds from CDLAC after January 2013 will have until December 31st of 2017 to complete and submit policies to CDLAC. If an Applicant has not utilized CDLAC's programs but has a 2017 project pending, a one year waiver to this regulation may be requested. To fulfill this requirement, approval of the policies must be documented in a resolution dated no earlier than 2006. All policies must be reviewed and re-approved at least every 10 years thereafter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(f), 8869.84(g), 8869.85(a), 8869.85(b), 8869.88, and 8869.89, Government Code.

Section 5032. Applicant Responsibilities. (a) Applications for an Allocation of the State Ceiling shall include the information prescribed by the Committee specific to the State Ceiling Pool or program to which the Application is addressed. All questions set forth in the applicable Application must be answered completely and accurately. Each Application must be accompanied by the required documentation prescribed therein. Only complete Applications bearing the original signatures of an officer of the Applicant and the Project Sponsor, if applicable, will be accepted.
(b) Every Applicant shall certify to the Committee that it is in compliance with all applicable statutes, laws, rules, and regulations necessary for the transaction of its business.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.85(a) and (b), and 8869.87 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~~ **\$1,200** 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:

1. 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
2. no less 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. If the Applicant is a JPA, the jurisdiction issuing the TEFRA Resolution must be a member of the Applicant at the at the time the Resolution is adopted or must have approved becoming a member of the Applicant at or prior to the time the Resolution is adopted.

(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:

1. 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
2. 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.

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 5034. Ranking. Applications submitted under a Competitive Application Process will be ranked according to the number of points awarded by the Committee pursuant to the evaluation criteria specific to the State Ceiling Pool or program to which the Application is addressed.

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 5035. Preliminary Recommendations. (a) At least twenty-five (25) calendar days prior to any meeting at which the Committee will award Allocations, the Executive Director will post a preliminary list of Applicants for which the Executive Director expects to recommend an Allocation (and the amount of those Allocations) in ranked order. The list will be posted on the Committee's website as provided in section 5140.

(b) For the Qualified Residential Rental Program, the list will identify the points earned by each Applicant in all categories for which points are awarded, including the Applicant's aggregate total points.

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

Section 5036. Appeals to Preliminary Recommendations. Any Applicant who wishes to appeal the preliminary recommendation or ranking as prescribed in section 5035 may file an appeal within five (5) business days of the date on which the preliminary list is posted. The appeal must set forth in reasonable detail the factual basis for the appeal. No new or additional information beyond that provided in the original Application may be provided to or considered in connection with the appeal. All appeals shall be made in writing and delivered to the Committee, no later than 5:00 p.m. (Pacific Time) on the last day specified for filing an appeal. An Applicant may only appeal the recommendation or ranking of its own Application(s). Each Applicant who has submitted an appeal will be notified of the decision on the appeal pursuant to section 5037.

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

Section 5037. Final Recommendations. (a) At least ten (10) calendar days before the Committee meeting for which Allocations will be awarded, the final list of Applicants for which Allocations will be recommended (and the amounts of those Allocations) in ranked order will be posted. This list will reflect changes, if any, in ranking resulting from the appeals as provided in section 5036. The list shall be posted on the Committee's website as provided in section 5140.

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

Section 5038. Appeals to Final Recommendations. Any Applicant who timely appealed the preliminary determination and is dissatisfied with the final recommendation in connection with the Application or received no preliminary recommendation, may present its case to the Committee at the Allocation meeting at which the Application is considered, provided that the Applicant gives notice, in writing, of its intention to do so at least five (5) business days prior to the Allocation meeting. An Applicant's written notification must be delivered to the Committee, no later than 5:00 p.m. (Pacific Time) on the last day specified for providing notice.

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

Section 5039. Publishing of Agenda. At least ten (10) calendar days before all Committee meetings, the Executive Director shall post an agenda of all items to be heard by the Committee, on the Committee's website provided in section 5140.

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

Article 5. Performance Deposits and Fees

Section 5050. Performance Deposit Requirements. (a) Applications for Bonds shall include evidence of a performance deposit equal to one-half of one percent (.5%) of the Allocation requested, not to exceed \$100,000 made payable to the Applicant. Such evidence may include, but is not limited to a copy of a check, a letter of credit from a Commercial Bank with an A category or higher credit rating naming CDLAC as the beneficiary, certified funds or in the case where the Application is for a Single Family Housing Program, a copy of a general ledger statement evidencing that funds have been reserved for this purpose, and a fully executed Performance Deposit Certification that certifies the required deposit has been made and is being held by the Applicant on the behalf of the Committee.

(b) Applicants must maintain the performance deposit until a written release is received from the Committee.

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

Section 5051. Release of Performance Deposit. (a) The written authorization releasing a performance deposit or refund of deposits paid to the Committee will occur upon the Committee's receipt of a properly completed Report of Action Taken that is appropriate to the transaction type as required in section 5142, ~~and~~ all filing fees as required in section 5054, and a digital copy of the conformed, recorded Bond Regulatory Agreement. The Committee Resolution shall provide the timeframe for using the Allocation and filing the required Report of Action Taken.

(b) In the case of a Qualified Residential Rental Project that also requests an allocation of state credit reserved for tax-exempt projects from the California Tax Credit Allocation Committee (CTCAC), the full release or refund of

a performance deposit will be authorized if the Project Sponsor is able to demonstrate that the failure to use Allocation is solely due to the failure to receive an allocation of state tax credit.

(c) In the case of Mortgage Credit Certificates, the full release or refund of a deposit will not be authorized unless the Allocation has been converted to Mortgage Credit Certificate authority by the date specified in the Committee Resolution.

(d) Nothing in this section shall be construed to address the forfeiture of deposit relative to utilization of carry-forward Allocations pursuant to section 5132.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), 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, 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 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 5053. Withdrawn or Denied Applications. If the Applicant withdraws an Application prior to consideration by the Committee or if a Project fails to receive an award of Allocation, the performance deposit shall be automatically refunded or released with and no written authorization from the Committee shall be necessary.

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

Section 5054. Filing Fees. Each Applicant shall submit a filing fee in an amount equal to the product of the amount of Allocation actually used to issue Bonds, or Mortgage Credit Certificates multiplied by .00035. The payment of the fee shall be in two installments as follows:

(a) Initial filing fee. A check in the amount of ~~\$1200~~ ~~\$600~~ payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.

(b) Initial filing fee for supplemental awards. A check in the amount of \$600 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.

~~(c)~~ ~~(b)~~ Second installment of Filing Fee. The second installment of the filing fee will be due within thirty (30) days after Bond issuance or issuance of the first Mortgage Credit Certificate. The Committee will issue an invoice in conjunction with the Committee Resolution transferring the Allocation to the Applicant. The amount of the second installment of the filing fee is the product of the amount of Allocation used to issue Bonds or convert to Bond to Mortgage Credit Certificate authority multiplied by .00035, less the fee paid pursuant to subdivision (a) of this section.

~~(d)~~ ~~(e)~~ If the second filing fee is not received within thirty (30) days, the Committee shall instruct the Applicant to remit the amount due from the performance deposit maintained by the Applicant specifically for the Project or program that was awarded Allocation pursuant to section 5050.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.90, Government Code.

Article 6. Bond Sale Structure Requirements

Section 5060. Minimum Requirements. (a) Applicants, other than Applicants for a Mortgage Credit Certificate Program, shall provide evidence of a plan to privately place or publicly sell the proposed Bonds with or without Credit Enhancement for an amount no less than the amount requested in the Application. Bond sale structures that include a credit rating shall be subject to the following:

(1) Governmental Bond issues with full recourse to, or guaranteed by a general obligation of a governmental entity with taxing authority or Qualified Private Activity Bonds with recourse to the corporate parent entity of the Project Sponsor via a corporate guarantee must have an investment grade credit rating for the Project or the source of the aforementioned guarantee for the Project.

(2) Qualified Private Activity Bonds without a governmental or corporate guarantee shall provide a credit rating specifically for the transaction.

(3) Governmental Bond issues with limited recourse (i.e. lease revenue Bonds, project-specific recourse, or certificates of participation) may provide either a credit rating specifically for the transaction or provide evidence of a current credit rating for an existing outstanding Bond with the same source of debt repayment.

(4) All Bond ratings shall include evidence that the credit rating has been provided within the last six (6) months, or that the current credit rating for outstanding Bond(s) has been substantiated via the most recent updated surveillance review completed by a rating agency within the last thirty six (36) months.

(b) Applicants requesting an award of Allocation for pollution control projects administered by the California Pollution Control Financing Authority (CPCFA) or an award of Allocation for Industrial Development Bond Projects administered by California Industrial Development Financing Advisory Commission (CIDFAC) should refer to CPCFA or CIDFAC regulations for additional requirements.

(c) Notwithstanding the requirements set forth in article 6 of this chapter, the Committee may apply more stringent requirements and thresholds for a given Project based upon factors such as, but not limited to the size of the Bond issue and/or the specific ratings of the Applicant and/or Project Sponsor.

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

Section 5061. Credit Enhanced Sales. (a) Applications for Bonds to be issued and sold through a public sale with Credit Enhancement will be deemed to have provided satisfactory evidence of a Bond sale plan required in section 5060 if documentation from the Credit Enhancer includes the following:

(1) Project Sponsor (borrower).

- (2) Project name and location.
- (3) Amount of the Credit Enhancement.
- (4) Salient terms and conditions of the agreement, including but not limited to the fee structure, term, rate, security, collateral, guarantee, and recourse of the commitment.
- (5) Evidence that the Credit Enhancer is committed to move forward with the transaction if the terms and conditions in the commitment letter are met.
- (6) Acceptance of the terms and conditions of the Credit Enhancement by the Credit Enhancer and Project Sponsor evidenced by signatures from both parties.
- (7) If Fannie Mae, (a private, shareholder-owned company with a charter from Congress requiring the company to support the housing finance system) or any additional or successor entity possessing a similar Congressional charter is providing the Credit Enhancement, the commitment issued by a qualified lender under the Delegated Underwriting and Servicing (DUS) program of Fannie Mae will constitute acceptable proof of Credit Enhancement.
- (b) If the Bonds are to be variable rate Bonds, the short term rating shall be no less than “A1” by Standard & Poor’s, “VMIG1” by Moody’s, or “F-1” by Fitch IBCA, Inc. or the equivalent.
- (c) If the Bonds are to be fixed rate Bonds, the Bond rating shall be no less than an “A” category or the equivalent as rated by a Nationally Recognized Statistical Rating Organization. If the Bond rating is below an “A” category or the equivalent, the Application will be evaluated pursuant to section 5065.
- (d) If any State Agency ~~the California Housing Finance Agency~~ is providing the Credit Enhancement, evidence of its investment grade rating shall be provided with the Application.

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

Section 5062. Private Placement Sales. (a) Subject to Section (b) below, a Applications for Bonds to be issued and sold through a private placement will be deemed to have provided satisfactory evidence of a Bond sale plan required in section 5060 if documentation from the Bond purchaser(s) includes the following:

- (1) Project Sponsor (borrower).
 - (2) Project name and location.
 - (3) Bond purchase amount.
 - (4) Salient terms and conditions, including but not limited to the fee structure, term, rate, security, collateral, guarantee, and recourse of the commitment including the interest rate of the agreement.
 - (5) Evidence that the lender is committed to move forward with the transaction if the terms and conditions in the commitment letter are met.
 - (6) Acceptance of the terms and conditions of the commitment letter by the purchaser and Project Sponsor.
- b) For applications submitted after December 31, 2016 Cash Flow Permanent Bonds to be issued and sold through a private placement including, without limitation, bonds purchased by a property seller in consideration of the provisions of a purchase and sale agreement, will be deemed to have provided satisfactory evidence if the provisions of 5062 (a) have been satisfied and, additionally, if at the time of bond issuance the bond purchaser elects to:
- (1) submit a Traveling Investment Representation Letter from a Qualified Institutional Buyer or Sophisticated Investor due three (3) days prior to Bond issuance; or
 - (2) ensure a minimum Bond denomination of \$100,000.

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

Section 5063. Unenhanced Bond Sales with an A Category or Higher Rating including sales where cash is the collateral. (a) Applications for Bonds to be issued with an unenhanced credit rating equivalent to an “A”

category or higher as rated by a Nationally Recognized Statistical Rating Organization will be deemed to have satisfied the minimum Bond sale requirements required in section 5060 if the following is provided:

- (1) Placement Agent Statement.
- (2) Certifications of no current Bond Defaults by the Issuer, guarantor (if any) and the Project Sponsor (if any).

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

Section 5064. Unenhanced Bond Sales with a BBB Category Credit Rating. (a) Applications for Bonds to be issued with an unenhanced credit rating in the “BBB” category or equivalent as rated by a Nationally Recognized Statistical Rating Organization will be deemed to have satisfied the minimum Bond sale requirements required in section 5060 if the following is provided:

- (1) Placement Agent Statement.
 - (2) Certifications of no current Bond Defaults by the Issuer, guarantor (if any) and the Project Sponsor (if any).
 - (3) Brief summary of the marking plan.
- (b) In addition to the requirements of subdivision (a) of this section, awards of Allocation will be subject to the following conditions:
- (1) Governmental Bond issues with full recourse to, or guaranteed by a general obligation of a governmental entity with taxing authority will be subject to minimum denominations of \$5,000.
 - (2) Governmental Bond issues with limited recourse and all Qualified Private Activity Bonds will be required to have either of the following:
 - (A) The submission of an Investment Representation Letter from a Qualified Institutional Buyer or Sophisticated Investor due at Bond issuance; or
 - (B) Minimum Bond denominations of \$100,000.
 - (C) Applicants will state in both the Application and the marketing plan whether they favor a CDLAC award with an Investment Representation Letter requirement or with the minimum denomination requirement. The marketing plan’s stated issuance structure and offering summary must reflect the Applicant’s preference.

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

Section 5065. Unenhanced Sales with Unrated or Non-Investment Grade Credit Rating. (a) Applications for Bonds to be issued with unrated or unenhanced non-investment grade credit ratings will be permitted only for limited recourse Government Bond issues and Qualified Private Activity Bonds and will be deemed to have satisfied the minimum Bond sale requirements required in section 5060 if the following is provided:

- (1) Placement Agent Statement.
 - (2) Certifications of no current Bond Defaults by the Issuer, guarantor (if any) and the Project Sponsor (if any).
 - (3) Complete marketing plan.
- (b) In addition to the requirements of subdivision (a) of this section, awards of Allocation will be subject to the following conditions:
- (1) The submission of a Traveling Investment Representation Letter due three (3) business days before issuance; or
 - (2) Minimum Bond denominations as follows:
 - (A) \$100,000 for Bond issues equal to or less than \$100,000,000; or
 - (B) \$250,000 for Bond issues over \$100,000,000.
 - (3) Applicants will state in both the Application and marketing plan whether they favor a CDLAC award with a Traveling Investment Representation Letter requirement or with the minimum denomination requirement. The marketing plan’s stated issuance structure and offering summary must reflect the Applicant’s preference.

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

Section 5066. Qualifying Bond Defaults. (a) Bond Applications on behalf of a Project Sponsor with a Qualifying Bond Default or bankruptcy in the last three (3) years, and/or from a Bond Issuer with three (3) or more Qualifying Bond Defaults in the last five (5) years shall be restricted to private placement sales accompanied with an Investment Representation Letter or public sales with a minimum A category credit grade. Governmental Bond Applications on behalf of a governmental guarantor with a Qualifying Bond Default or bankruptcy within the last three (3) years shall be restricted to private placements with Qualified Institutional Buyers or to public sales rated A or higher.

(b) Bond Issuers and Project Sponsors who are subject to these restrictions may submit an appeal for a waiver of this requirement which shall be considered by the Committee. For Issuers, appeals which involve the following circumstances may be considered by the Executive Director:

(1) At least two (2) out of the three (3) Qualifying Bond Defaults referenced involve the same Project Sponsor; or
(2) At least two (2) out of the three (3) Qualifying Bond Defaults referenced involve transactions whose bond issuance occurred more than ten (10) years prior to the default recordation date.

(c) All appeals shall be made in writing, included with the Application and must set forth in reasonable detail the factual basis for the appeal.

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

Article 7. Committee Resolution; Use of State Ceiling Allocations

Section 5080. Granting of Allocation. The granting of an Allocation by the Committee shall be memorialized in a written resolution adopted by the Committee. The Committee Resolution shall specify but not be limited to the following: the Applicant, the amount of the Allocation, the project or program name for which the Allocation has been provided, the Project Sponsor using the Bond proceeds where applicable, the location of the project or program, the expiration of date of the Allocation, and any additional conditions or restrictions imposed on the Allocation by the Committee.

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

Section 5081. Changes in Use of Allocation. Use of an Allocation shall be limited by the provisions of the Committee Resolution. Any changes to the specifications contained in the Committee Resolution prior to the issuance of Bonds, including, but not limited to, changes to the Bond sale structure, the provider of any Credit Enhancement, the direct purchaser of the Bonds if a private placement of Bonds is indicated, the entity selling Bonds, or the identity of the Applicant, must be approved by the Committee prior to the Bond issuance. The Committee may delegate the authority to approve these changes to the Committee Chair or to the Executive Director. The Executive Director may administratively approve routine and non-substantive changes that do not require additional Allocation.

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

Section 5082. Certification of Bond Issuance. Following the Committee's receipt of a Report of Action Taken as provided in section 5142, the State Treasurer or his or her designee shall provide the Applicant with a letter certifying that the Bond issue meets the requirements of 26 U.S.C. section 146. For Mortgage Credit Certificate Applicants, this certification letter shall be provided the time that the Committee Resolution is transmitted.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.83(b), 8869.84(c), 8869.86(c), and 8869.93 Government Code.

Article 8. Expiration of Allocations

Section 5100. Program Expiration Dates. (a) The expiration date of the Allocation shall be specified in the Committee Resolution and shall start from the date on which the Committee awards the Allocation.

(b) Notwithstanding extensions as provided in sections 5101, 5102 or 5103; the limitations prescribed by section 5104; or Allocations awarded on a carry-forward basis as provided in section 5131; the expiration dates for issuing Bonds or converting Bonds to Mortgage Credit Certificate authority shall be:

(1) Ninety (90) days for the issuance of Beginning Farmer Bonds, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, Exempt Facility Bonds, Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, Qualified Energy Conservation Bonds and the conversion of Bonds to Mortgage Credit Certificate authority.

(2) One-hundred twenty (120) days for the issuance of Student Loan Bonds and for the issuance of at least one (1) Mortgage Credit Certificate.

(3) For Qualified Residential Rental Project Bonds, the following expiration dates shall be assigned randomly by a lottery drawing conducted by the Executive Director within five (5) business days following each Allocation Round:

(i) Projects receiving an allocation during a Competitive Application Process shall be assigned an expiration date of ninety (90) days, one-hundred (100) days or one-hundred ten (110) days.

(ii) Projects receiving an allocation during an Open Application Process shall be assigned an expiration date of one-hundred eighty (180) days or one-hundred ninety-four (194) days.

(iii) A project's applicant may request an expiration date of less than one-hundred eighty (180) days by submitting a written request to the Executive Director. The request shall be submitted no later than the final posting date for the round in which the project is seeking an allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), 8869.89, Government Code.

Section 5101. Extensions to Expiration Dates. Excluding Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, and Mortgage Credit Certificates, Allocations awarded during an Open Application Process, the Executive Director may grant an additional extensions of up to ninety (90) days.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.89, Government Code.

Section 5102. Recovery Zone Bond Extensions. The Committee may extend the expiration date for the issuance of Recovery Zone Facility Bonds or Recovery Zone Economic Development Bonds to thirty (30) days. The Committee may delegate this authority to the Executive Director.

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

Section 5103. Five Day Hardship Extensions. The Committee may grant an extension to the expiration dates provided in sections 5100, 5101, and 5102 up to five (5) additional business days for extreme hardship cases. The Committee may delegate this authority to the Executive Director.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), and 8869.89, Government Code.

Section 5104. Year-End Allocations. Unless the Committee authorizes the carry-forward of an Allocation pursuant to article 10 of this chapter, the expiration date of all Allocations shall be no later than December 31 of

the same calendar year pursuant to 26 U.S.C. section 146(d), which defines the State Ceiling. The pending year-end expiration may result in the assignment of expiration dates shorter than as prescribed in section 5100.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) 8869.84(e), and 8869.89, Government Code.

Section 5105. Reversion to Committee. Upon the expiration of an Allocation, any amount of the Allocation that has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate authority will automatically revert to the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.89, Government Code.

Section 5106. ~~State Veterans Single Family Home Loan Programs~~. Carryforward Allocations made pursuant to article 10 of this chapter to a Veterans Home Loan Program are not subject to expiration except as set forth in 26 U.S.C section 146(f)(3).

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

Section 5107. State Single Family ~~Veterans Home Loan Programs~~. Carryforward Allocations made pursuant to Article 10 of this chapter to a Veterans Home ~~Loan~~ Program or a CalHFA Single Family Program are not subject to expiration except as set forth in 26 U.S.C section 146(f)(3).

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

Article 9. Transfers of Allocation

Section 5120. Transfer Requirements. (a) Except for the reversion of unused Allocation pursuant to section 5106, Allocations are not transferable unless expressly authorized in writing by the Committee. The Committee may permit transfers of Allocation, including carry-forward Allocations to the highest scoring Application on a waiting list or, if a waiting list does not exist, the highest scoring Project in queue in a current Allocation Round. (b) Where the Applicant is administering a Single Family Housing Program for itself and other participating jurisdictions, the use of Allocation within the participating jurisdictions listed in the Committee Resolution is not considered a transfer. For purposes of this subdivision, participating jurisdictions means those entities that have provided written assignment of their rights to secure an Allocation to the Applicant. The Applicant shall submit copies of the assignments with the Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.85(c), 8869.85(d), and 8869.86(a)(3), Government Code.

Article 10. Carry-forward Allocations

Section 5130. Prohibitions. An Applicant receiving an Allocation may not carryforward the Allocation to a subsequent calendar year unless expressly authorized in writing by the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.85(c), Government Code.

Section 5131. Granting of Carryforward Allocations. The Committee may award Allocation on a carryforward basis for the purpose of providing sufficient time for Applicants to issue Bonds under the current year's State Ceiling and/or to ensure all remaining portions of the State Ceiling are issued.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.85(c) and 8869.86(a)(3), Government Code.

Section 5132. Expiration of Carryforward Allocations. The Committee will specify the expiration date of the carryforward Allocation in the Committee Resolution memorializing the grant of the Allocation. If any amount of the carryforward Allocation has not been used to issue Bonds or convert Bonds to Mortgage Credit Certificate Authority on or before the expiration date, the performance deposit will be forfeited to the Committee and the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer in accordance with section 5120. If the Committee does not require a transfer of the carryforward Allocation, the expiration date may be extended with the approval of the Executive Director until the Allocation expires pursuant to 26 U.S.C. section 146(f)(3) or to each subsequent deadline for submitting Applications to the Committee. At that time, the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), 8869.85(c), and 8869.86(a)(3), Government Code.

Article 11. Reporting and Compliance Requirements

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

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

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

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

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

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

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

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

Section 5144. Annual Applicant Public Benefits and On-going Compliance Self Certification. (a) All Projects that receive an Allocation ~~and are within an existing regulatory period and/or compliance period~~ shall be monitored for compliance with the applicable terms and conditions of the Committee Resolution by the Applicant (Issuer) and CDLAC. The self-certification must be submitted by the Applicant to CDLAC no later than March 1 of each year (or at such other time as requested by the Committee). The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy affecting the Applicant including but not limited to disqualification from the program.

- 1) For Projects receiving an Allocation prior to December 31, 2016, tThe Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification via the online compliance certification system annually for the longer of the period the bonds remain outstanding or the period of restriction for QRRP projects outlined in Section 5192.
- 2) For Projects receiving allocation after December 31, 2016, the Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification via the online compliance certification system every year until the completion of the project and then if the project is subject to a Regulatory Period and/or Compliance Period every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period.
- 3) ~~— 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). The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy~~

(b) For all QRRP projects receiving allocations after December 31, 2016, Sponsors will be required to utilize TCAC's Compliance Manual specifically Section VI: Qualify Tenants for Low Income Housing Tax Credit Units to verify tenant income in conjunction with initial occupancy. No less than every three years after the project is completed, the Sponsor must collect and retain the following income and verification documentation related to all the Federally Bond-Restricted units identified in the Committee Resolution or units as defined in Section 5200 (e): TCAC Tax Income Calculation (TIC) or equivalent documentation, all associated source income documentation, and evidence of the verifying income computation. Additionally Project Sponsors will be required to prepare and forward a TCAC Project Status Report (PSR) or equivalent documentation to the Applicant annually in conjunction with the Annual Applicant Public Benefits and On-going Compliance Self Certification. Sponsors must retain information pertaining to the income verification process for 10 years.

(c) For all QRRP projects receiving allocation after December 31, 2016, compliance with the income and rental requirements of the Federally Bond-Restricted Units identified in the Committee Resolution and the Bond Regulatory Agreement must be demonstrated by the Applicants initial review of 20% of all management files associated with the Federally Bond- Restricted units and subsequent review every three years of 20% of all management files associated with the Federally Bond-Restricted units. Federally Bond-Restricted units will include a distribution of unit locations, sizes and income levels (if applicable) and must be identified in the PSR. For this 20% of files, Applicants must review each initial or subsequent occupant/s and their associated TIC in conjunction with the supporting income verification documentation of each occupant's initial occupancy and make a determination if the project is complying with the income and affordability standards. Additionally, Applicants must ensure a lease is in place and executed. This review may be performed on-site or may be performed through an electronic file audit. Completion of this task in addition to a valid Certification of Compliance II or equivalent form will provide Issuers with the ability to report annually to CDLAC regarding compliance with the Federally Bond-Restricted unit restrictions. Information pertaining to the income verification process will be kept on file for 10 years. Applicants must retain documentation memorializing review and determination of income eligibility 10 years. Source income documentation must be retained for 1 year. These

guidelines rely on the compliance monitoring process and procedures in place for TCAC. To the extent TCAC is to alter their compliance policies and procedures, these guidelines shall be reviewed by CDLAC for consistency and changes made where appropriate.

(d) For all QRRP projects, Sponsors requesting an allocation of bonds absent the receipt of a TCAC reservation will be identified at the time of application and will have the following compliance options which will be represented in the Committee Resolution:

1) Applicants that can demonstrate to the Executive Director's satisfaction experience and current capacity to conduct on-site physical and file inspections through their Compliance Policies will be required to conduct the 20% review of the Federally Bond-Restricted units files on-site and perform a site inspection consistent with their Bond Compliance Policy every 3 years after the Qualified Project Period has commenced.

2) Applicants that cannot demonstrate to the Executive Director's satisfaction capacity to conduct on-site physical and file inspections through their Compliance Policies will be required to enter into an agreement with a private third party compliance firm, approved by CDLAC, who must conduct the 20% review of Federally Bond-Restricted units files on-site and perform a site inspection consistent with their current policies and procedures every 3 years after the Qualified Project Period has commenced.

3) A Sponsor can enter into contract with CDLAC or designee to monitor the Federally Bond-Restricted units for consistency with the bond regulatory agreement and the Committee Resolution. The charge for this service will be equivalent to the compliance fee charged by TCAC at the time the project submits their application to CDLAC.

4) The election of the option will be included in the Committee Resolution.

Section 5145. Certification of Compliance. (a) All QRRP Projects receiving an Allocation prior to December 31, 2016 shall be monitored for compliance with the applicable terms and conditions of the Committee Resolution by the Applicant and CDLAC for the longer of the period the bonds remain outstanding or the period of restriction outlined in Section 5192. MCC awards will be monitored until the allocation has been utilized. The Applicant shall annually collect from the Project Sponsor and retain for QRRP projects a Certification of Compliance I as attached to the Committee Resolution.

(b) For all Projects that receive allocation after December 31, 2016 and subject to a Regulatory Period and/or Compliance Period, the Applicant shall collect from the Project Sponsor and retain the applicable QRRP or Non-QRRP Certification of Compliance II as attached in the Committee Resolution or other comparable form outlined in an Applicant's approved Bond Compliance Policies. The QRRP or Non-QRRP Certification of Compliance II will be submitted annually to the Applicant until the Project is completed and then if the project is subject to a Regulatory Period and/or Compliance Period, every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period. Additionally, Applicants shall collect from the Project Sponsor and retain the applicable QRRP or Non-QRRP Certificate of Completion as provided in the Committee Resolution or other comparable form outlined in an Applicant's approved Bond Compliance Policies. In both instances, the certification must be submitted by the Project Sponsor. The Applicant will then provide confirmation of receipt to the California Debt Limit Allocation Committee no later than March 1 of each applicable year (or at such other time as requested by the Committee) via the online compliance certification system. These requirements shall be enforceable by the Committee through an action for specific performance or other available remedy against the Project Sponsor.

(c) All QRRP 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.

(d) All Non-QRRP Applicants must designate CDLAC, for the life of the bonds, to receive notice of changes in use and circumstances of Bond Default and Qualifying Bond Default.

Section 5146. Disqualification. The Committee may disqualify an Application for a portion of the 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 I or Certification of Compliance II, Certificate of Completion, tenant files or physical conditions at any tax-exempt Bond or low income housing tax credit financed property in California. Requests to excuse 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 or private activity Bond allocations within applicable deadlines, or to provide committed 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: Sections 8869.84(c), 8869.85(a), 8869.85(b), and 8869.86(c) Government Code.

Article 12. Universal Evaluation Criteria for all Applications

Section 5150. Satisfactory Evidence. Wherever these regulations require that an Applicant demonstrate a certain condition or characteristic or satisfy certain minimum requirements, each such condition or characteristic or minimum requirement must be demonstrated by satisfactory evidence. The Executive Director shall, upon delegation by the Committee, determine whether each condition, characteristic or minimum requirement has been satisfactorily demonstrated and may refuse to consider any Application that has not satisfactorily demonstrated every minimum requirement.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.83(b) and 8869.84(c), Government Code.

Section 5151. Evaluation of Points. Wherever the Application process contemplates the awarding of points, the Applicant must demonstrate by satisfactory evidence that the related criterion has been satisfied. Where it is determined by Committee staff that the evidence has not been satisfactorily demonstrated, the Executive Director shall not award the related points.

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

Section 5152. Readiness Threshold. The Applicant must demonstrate satisfactory evidence to Committee staff that it can use the Allocation within the time frame as provided in article 8 of this chapter.

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

Section 5153. Measurement of Distance. Wherever these regulations contemplate an award of points based on a measurement of distance, that distance shall be measured from the perimeter of the proposed Project to the perimeter of the site amenity referenced. Applications shall include a detailed scaled-for-distance map from which the Committee can document that the measurement criteria have been met.

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

Section 5154. Discovery of Erroneous Information. It is the responsibility of each Applicant and each Project Sponsor to provide the Committee with complete and accurate information at the time the Application is filed. If the Applicant/Project Sponsor (or their attorneys, agents, employees, or other representatives) provides material that is incomplete, erroneous, inaccurate, misleading or false as to a fact to the Executive Director's decision-making process, the Application may be rejected. If incomplete, erroneous, inaccurate, misleading or false information is discovered by Committee staff after an Allocation has been made, the Allocation may be rescinded if Bonds have not been sold or an election to convert Bond authority to Mortgage Credit Certificates has not been filed with the Internal Revenue Service. If Bonds have been sold or converted to Mortgage Credit Certificates, the Committee may take other action as it deems appropriate.

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

Chapter 2. Qualified Residential Rental Projects

Article 1. Definitions.

Section 5170. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

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

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

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

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

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

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

"Federal Promise Zone" means any area with a continuous boundary and a population of not more than 200,000 that is nominated by a local government or Indian tribe and designated by the U.S. Department of Housing and Urban Development to receive priority for Federal funding on the basis of its unemployment, poverty, vacancy, and crime rates.

"Federally Assisted At Risk Project" means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c)(4) and by section 10325(g)(5)(B)(i)-(v) of Title 4 of the California Code of Regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code section 17058(c)(4) and section 10325(g)(5)(B)(i) of Title 4 of the California Code of Regulations, except that the federal

assistance due to expire within two (2) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

“FHA” means Federal Housing Administration.

“FHA Financed Project” means a project financed under 221(d)3, 221(d)4, 223(f) Federal Housing Administration insurance program, or the Section 202 or 811 Capital Advance program, or any HUD-sponsored capital financing pilot program.

“Final and Conclusive Determination Letter” means a written confirmation from the Department of Finance (DOF) that its determination of an enforceable obligation as approved in a recognized obligation payment schedule is final and conclusive, and reflects DOF’s approval of subsequent payments made pursuant to the enforceable obligation.

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

Hard Costs: The cost of the work specified in a construction contract, including site work, excluding contractor profit, general requirements and contractor overhead.

“High Quality Transit” means a transit line with service seven days per week that operates on a railway, dedicated right-of-way or contains at least one of the following characteristics for at least a portion of its route: use of a High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lane, middle of the road boarding alignment, signal prioritization, or use of limited stop service, including express service and skip-stopping.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Development Acknowledgement Letter” means HUD correspondence outlining that a project has submitted an application for FHA financing, that the application has been deemed complete, and that HUD is committed to providing the project with a Firm Commitment Letter prior to the issuance expiration date of the project’s Allocation.

“HUD Firm Commitment Letter” means a HUD loan commitment for FHA financing.

“MAP Lender” means a HUD-qualified lender that prepares FHA forms and performs preliminary underwriting for certain FHA loan applications.

“Native American Lands” means real property located within the State of California that meets both the following criteria:

- (a) is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States.
- (b) the land may be leased for housing development and residential purposes under federal law.

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

“Other Restricted Units” means units that are not Federally Bond-Restricted Units but are affordable and identified in the CDLAC resolution as being subject to the long-term rent and income restrictions

“Public Funds” means direct grants, below market rate or subsidized loans, loans where the repayment of the financing is deferred into the future or based on residual receipts from the Project’s cash flow, direct funds from a public source including, but not limited to, waiver of fees or the value of land donated or leased by a public agency substantiated either by the actual purchase price of the land or by an appraisal whichever is lower, excluding a property tax exemption. Public Funds do not include any Allocation awarded by the Committee.

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

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

“Residential Rental Regulatory Agreement” means a covenant recorded against the title of a subject property by a government entity limiting the property’s use to rental housing and restricting tenant incomes and rents to no more than 80% Area Median Income of the County in which the property is located.

“Scattered Site Project” means multiple location Projects that:

- (a) except where a single existing project-based Section 8 contract is in effect that covers all locations, consist of no more than five (5) locations; and
- (b) are not contiguous except for the interposition of a road, street, stream or similar property; and
- (c) are proposed to be financed through a single pooled bond transaction; and
- (d) all locations are:
 - (1) subject to a Residential Rental Regulatory Agreement or subject to a federal, state, or local rental or operating assistance agreement:
 - (A) within the boundaries of the same city, or
 - (B) within a 10-mile diameter circle within the same county, or
 - (C) within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more; or
 - (2) All projects not described within (d)(1) must be within a one (1) mile diameter.

“Standard QRRP Competitive Application” means the Application for an Allocation of the Qualified Residential Rental Project Pool titled “Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)” (revised 10-20-15), which is hereby incorporated by reference.

“Standard QRRP Open Application” means the Application for an Allocation of the Qualified Residential Rental Project Pool titled “Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)” (revised 10-20-15), which is hereby incorporated by reference.

“Substantial Renovation Project” means a multifamily residential rental project where the hard costs of rehabilitation, including overhead, profit, and general conditions, are at least \$35,000 per tenant unit.

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

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

~~“Sustainable Building Methods” means any method or materials used in the development or rehabilitation of a Qualified Residential Rental Project that will increase energy efficiency by at least 15% above the energy standards set forth by the California Energy Commission in Part 6 (commencing with section 10101) of Title 24 of the California Code of Regulations or a rehabilitation Project not subject to Title 24 Standards that reduces energy use on a per square foot basis by 25%.~~

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

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

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

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

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

"Universal Competitive Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled “Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum” (revised 10-20-15), which is hereby incorporated by reference.

"Universal Open Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled “Non-Competitive Application for an Allocation of the State

Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum” (revised 10-20-15), which is hereby incorporated by reference.

“VOC” means a volatile organic compound.

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

Article 2. Applications

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

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

Section 5181. Concurrent Application with Other Agencies. Applicants for an Allocation of the Qualified Residential Rental Project Pool that also seek financing in conjunction with the California Department of Housing and Community Development and/or the California Housing Finance Agency may submit a Universal Competitive Addendum or a Universal Non-Competitive Addendum depending on whether the Allocation Round for which the Application is being submitted is being conducted under a competitive or non-competitive process as provided in section 5010(b).

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

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

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

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

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

Article 3. Minimum Requirements

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

(a) Demonstrated site control. The Applicant shall provide evidence that the Project site is at the time of Application submission within the control of the Applicant or Project Sponsor. A current title report, or, for projects that will be located on Native American Trust Lands, a Land Title Status Report from the Bureau of Indian Affairs or an attorney's opinion regarding chain of title and current title status, dated no more than ninety (90) days prior to Application deadline as provided in section 5030, shall be submitted with all applications for the purposes of this requirement.

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

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

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

(C) An executed disposition and development agreement for the length of time the Project will be regulated under this program between the Project Sponsor and a public agency; or

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

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

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

(b) Local Approvals and Zoning. The Project Sponsor shall provide evidence, no later than the application due date for the allocation round in which the Project is seeking an allocation, that the site is zoned for the Project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials have been obtained. Additionally, if any land use approval is subject to public appeal, within no less than 5 calendar days prior to the first public posting of the Committee, the applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits, but do not include design review approvals. The Applicant may include a completed Verification of Zoning and Local Approvals form signed by an appropriate local government planning official of the applicable local jurisdiction for the purpose of satisfying this requirement. Those Qualified Residential Rental Pool Projects with redevelopment-related project financing that is subject to the approval of the Department of Finance (DOF) are required to have obtained a Final and Conclusive Determination Letter, or other written communication from DOF stating that DOF does not issue, or concludes is unnecessary, a Final and Conclusive Determination for this form of redevelopment financing obligation, prior to submitting an application to the Committee.

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

Section 5191. Income and Rent Restrictions. All Qualified Residential Rental Projects must meet the following minimum income and rent restrictions, which will be included in the Committee Resolution.

(a) Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the AMI. The rent restricted units that meet this requirement, with the

exception of Mixed Income Pool Projects, and acquisition rehabilitation projects already subject to a Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement, and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the Project. All projects ~~units shall be of comparable quality and~~ offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.

(b) Minimum Rent Restrictions. Except for projects subject to an existing Residential Rental Regulatory Agreement that propose tenant paid rents and income targeting not exceeding one hundred-five percent (105%) of the current rents and targeting and operate with a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%) as demonstrated by a market study completed pursuant to 26 U.S.C. Section 42(m)(1)(A)(iii); the proposed tenant paid rents for each Restricted Rental Unit type (defined by bedroom count) in the proposed development shall be at least ten percent (10%) below the weighted average rent for comparable market rate units and each Restricted Rental Unit's value ratio (dollars per square foot) shall be at or below the weighted average unit value ratio for comparable market rate units as demonstrated in a Rent Comparability Matrix meeting the requirements of article 4 of this chapter.

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

Section 5192. Minimum Term of Restrictions. (a) Income and rent restrictions as identified in the Committee Resolution for the total number of units must be maintained for the Qualified Project Period. For the purposes of this section, the Qualified Project Period is that period which begins on the date when ten percent (10%) occupancy is achieved and ends on the later of:

- (1) Thirty (30) years following the date on which fifty percent (50%) occupancy is achieved, or
- (2) The date on which Bonds are no longer outstanding or in an acquisition/rehabilitation project, unless less than 10% of the units are available for occupancy within 60 days of the earlier of property acquisition or the bond issuance date, the Qualified Project Period begins 12 months after the bond issuance date and ends on the later of:

- (A) Thirty-one (31) years after the bond issuance date, or
- (B) The date on which Bonds are no longer outstanding.

(b) All Projects shall be subject to subdivision (a) or subdivision (c) of this section, unless a Project is intended for eventual tenant homeownership, in which case evidence of a financially feasible program must be submitted in the Application. The program shall include, but is not limited to, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, no involuntary relocation of tenants, and a plan for conversion of the facility to home ownership no sooner than the end of the initial 15-year Qualified Project Period as required by 26 U.S.C. section 142(d)(2)(A). In such a case, the regulatory agreement shall contain provisions for the enforcement of such covenants.

(c) If the round in which an Application is being considered has been established under an Open Application Process, the Committee shall increase the minimum term of restriction to fifty-five (55) years following the date on which fifty percent (50%) occupancy is achieved or otherwise commencement of the Qualified Project Period. Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date.

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

Section 5193. Debt Service Coverage Ratio. For Qualified Residential Rental Projects, a minimum debt service coverage ratio (the ratio of the net operating income from the Project divided by the required debt service on the debt associated with the Project) shall be no less than 1.15 except for FHA/HUD projects, RHS projects or projects financed by the California Housing Finance Agency.

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

Section 5194. Project Costs. Applications with Projects where total project costs exceed ~~\$500,000~~ \$400,000 per unit ~~or with Rural Projects where total project costs exceed \$350,000 per unit~~ must include an explanation for why costs are beyond these levels and demonstrate that such costs are justified. Applications with high project costs may be presented to the Committee individually from the balance of recommended Projects.

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

Article 4. Market Studies.

Section 5200. Minimum Requirements. The Market Study must meet the current guidelines as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10322(h)(10).

(a) A full Market Study with a Rent Comparability Matrix for each applicable unit type prepared within (180) days of the Application deadline by an independent third party having no identity of interest with the Applicant, Project Sponsor, or Related Party is required.

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

(c) Except where a waiver is obtained from the Executive Director in advance of a submitted application, CDLAC shall not award an allocation to a rural new construction project if a tax-exempt bond, tax credit, or other publicly assisted project housing the same population is currently under construction or has received an allocation of bonds within the same market area. The Executive Director may grant a waiver where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition. The Executive Director may also grant a waiver for subsequent phases of a single new construction project where those phases are described in the application of the initial phase,

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

(e) Acquisition/Rehabilitation projects subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Section 5200(a), a comprehensive market study consistent with 26 U.S.C. Section 42 (m)(1)(A)(iii). The study must be a written statement, certified by a third party market analyst, which includes a current rent roll. In addition, ~~and~~ the project must meet at least one of the following requirements:

(1) as certified by a third-party market analyst, the proposed tenant paid rents and income targeting will not exceed one hundred-five percent (105%) of the current rents and targeting and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or

(2) as evidenced by copies of executed contracts, that the Project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.

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

Article 5. Sustainable Building Standards

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. 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.

(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;

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.

Article 6. Acquisition and Rehabilitation Projects.

Section 5210. Minimum Expenditures. (a) Except as set forth in subdivision (b) of this section, Qualified Residential Rental Projects involving the rehabilitation of existing buildings must complete a minimum of \$15,000 in hard construction costs per unit.

(b) Federally Assisted At Risk Projects that receive only an award of Bond authority and do not receive low income housing tax credits, must spend the minimum amount required by 26 U.S.C. section 147(d)(2).

(c) For purposes of this article, “hard construction costs” means the sum of the structure costs plus on-site and off-site costs.

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

Section 5211. Tenant Relocation. Applicants proposing rehabilitation or demolition of occupied housing shall provide a detailed description of the relocation plan with the costs included in the Project’s budget. Where existing low income tenants will receive a rent increase exceeding five percent (5%) of their current rent, Applicants shall provide a relocation plan addressing economic displacement. Where applicable, the Applicant shall provide evidence that the relocation plan is consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act (42 U.S.C. chapter 61) and has been submitted to the appropriate local agency.

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

Section 5212. Capital Needs Assessment. The Applicant shall submit a Capital Needs Assessment performed within 180 days prior to the Application deadline that details the condition and remaining useful life of the building’s major structural components, all necessary work to be undertaken and its associated costs, as well as the nature of the work, and distinguishing between immediate and long term repairs. If more than twelve (12) months has passed since the earliest inspection date, then a new Capital Needs Assessment is required. The Capital Needs Assessment shall also include a fifteen (15) year reserve study, indicating anticipated dates and costs of future replacements of all major building components that are not being replaced immediately and the reserve contributions needed to fund those replacements. The Capital Needs Assessment shall be prepared by the Project’s architect, as long as the architect has no identity of interest with the Project Sponsor or other member of the development team; or by a qualified independent third party who has no identity of interest with any of the members of the development team. The Capital Needs Assessment is not required if the Project, within the

immediately preceding three (3) years, received an Allocation and this requirement was satisfied in the original Application.

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

Article 7. Compliance Monitoring, Post Issuance Oversight and Termination of Project-Based Subsidies

Section 5220. Certification of Compliance- Regulatory 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 a Certification of Compliance in 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 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) 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~~ **QRRP** allocation recipients are required to execute a **Bond Regulatory Agreement (the "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. For projects submitted to CDLAC after December 31, 2016, the Regulatory Agreement shall terminate prior to the end of the CDLAC Resolution affordability term only in the event of (i) involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action of a federal agency after the bond issuance which prevents the Issuer, Fiscal Agent and/or the Trustee (as applicable) from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, and/or transfer of title by deed in lieu of foreclosure in connection with a deed of trust directly or indirectly securing the repayment of Permanent Bonds, or condemnation or a similar event, but only if, in the case of the events described in either clause (i) or (ii) above, the bonds are redeemed within a reasonable period or the proceeds for the event are used to provide a project that meets the requirement of the Regulatory Agreement.

(b) If Cash Flow Permanent Bonds finance project costs in projects submitted to CDLAC after December 31, 2016, all units identified in the CDLAC resolution, including both the Federally Bond-Restricted Units and the Other Restricted Units, will be incorporated into the Bond Regulatory Agreement. Assumptions to be included in the Bond Regulatory Agreement regarding the Other Restricted Units will include the AMI as outlined in the CDLAC resolution, a limitation that tenants pay no more than 30% of their income, and 1.5 person per bedroom occupancy standard to determine the applicable rent.

(c) For projects receiving allocation after December 31, 2016, The Bond Regulatory Agreement will:

- 1) Incorporate the CDLAC resolution by reference and as an attachment;
- 2) Have a term consistent with the income and rental restrictions established in the Resolution. The Bond Regulatory Agreement shall terminate in an Open Application process 55 years, and in a Competitive Application Process 30 years, from the date 50% occupancy is achieved or the commencement of the CDLAC Qualified project period;
- 3) Include all applicable income and affordability requirements outlined in 26 U.S.C. § 142, Cal. H&S Code § 34312.3 (c)(1) & (2), Cal. H&S Code § 51335(a), and Cal. H&S Code § 52080 (a)(1);
- 4) Clarify that compliance with items not contained within the body of the Bond Regulatory Agreement but referred to in the CDLAC resolution are the responsibility of the Sponsor to report to the Issuer;

- 5) Designate CDLAC to receive notice of changes in ownership, Issuer, project name and management company; and
- 6) Designate CDLAC to receive all notices regarding defaults associated with the rents and income requirements, Bond Default, Qualified Bond Default, and regulatory termination

(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.~~

Article 8. Evaluation Criteria

Section 5230. Evaluation Criteria.

(a) The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Any points awarded in this section shall be rounded to the nearest one-tenth decimal place 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:

1. 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
2. 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).
- (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).
- (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:

- a. three (3) points for at least one pass per rent-restricted unit,
- b. 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:

1. 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic:
 - a. that has a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, and
 - b. 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
2. 1 mile (for Rural set-aside projects, 1.5 miles) of a hospital (not merely a private doctor's office); or
3. 1/2 mile (for Rural projects, 1 mile) of a pharmacy.

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

(G) Two and one-half (2 ½) points will be awarded to Projects which provide high speed internet or wireless “WiFi” service connection in each unit. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of 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).

(1) 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.

(2) 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.

(3) 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) provided that the offset of potable water equals or exceeds 10,000 gallons annually.

(4) 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.

(5) 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.

(6) New Construction and Adaptive Reuse Projects: Up to six (6) ~~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

~~(87) New Construction or Adaptive Reuse Projects: not eligible for points under subdivision (k)(6) of this section~~
Points shall be awarded energy efficiency points according to one of the following: the California Tax Credit Allocation Committee’s minimum requirements for energy efficiency programs, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(B).

~~(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), whole 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)
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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.

(98) 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 energy efficiency criteria described for Rehabilitation Projects in The California Tax Credit Allocation Committee Title 4, Division 17, Chapter 1, 10325(c)(6)(C), (D) and (E).

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:

1. Photovoltaic (PV) generation that offsets tenant loads or
2. 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
3. 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:

1. Develop a project specific maintenance manual including replacement specifications and operating information of all energy and green building features; and
2. 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. The form of evidence shall follow that described in the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325(c)(6)(G). 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. 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:

1. 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)(i).
2. For sustainable building management practices, the Applicant must submit a copy of the energy management and maintenance manual and, the building commissioning plan.
3. 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.

(I) Service Amenities (10 points maximum).

(1) Points will be awarded provided the Project Sponsor certifies the following:

(A) Service amenities must be appropriate to the tenant population served and committed to for a minimum of 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

Section 5231. Ranking. After all of Applications for Qualified Residential Rental Projects are evaluated pursuant to section 5230, the Applications will be ranked and may be awarded an Allocation as follows:

- (a) Applications for Mixed Income Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Mixed Income Projects awarded the greatest number of points shall be awarded an Allocation from the Mixed Income Pool. Applications for Mixed Income Projects not receiving an Allocation will not be eligible for consideration for an Allocation under subdivisions (b) or (c) of this section.
- (b) Applications for Rural Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Rural Projects awarded the greatest number of points shall be awarded an Allocation from the Rural Project Pool. Applications for Rural Projects not receiving an Allocation pursuant to this subdivision are eligible for consideration for an Allocation under subdivision (c) of this section.
- (c) Applications for Qualified Residential Rental Projects that are not Mixed Income Projects, and any Applications for Rural Projects not receiving an Allocation under subdivision (b) of this section will then be ranked together. Applications receiving the greatest number of points shall be awarded an Allocation from the Qualified Residential Rental Project Pool.
- (d) If two or more Applications are awarded the same total number of points, these Applications will be ranked according to the lowest amount of requested Allocation per Restricted Rental Unit (Allocation amount requested divided by number of Restricted Rental Units).

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

Section 5232. Competitive Application Process Maximum Allocation Amount. (a) For projects subject to the Competitive Application Process, the Committee will allocate no more than fifty million dollars (\$50,000,000) for any proposed Qualified Residential Rental Project. Where a proposed Qualified Residential Rental Project is located within one-fourth (1/4) mile of another Qualified Residential Rental Project involving the same Project Sponsor or a Related Party to the Project Sponsor, the Allocation amounts for the Qualified Residential Rental Projects cannot, in the aggregate, exceed fifty million dollars (\$50,000,000) within a calendar year.

(b) The Committee may waive this maximum allocation amount if the Committee determines that the demand for allocation for Qualified Residential Rental Projects is such that the maximum allocation amount is not warranted. An Applicant requesting an Allocation in excess of fifty million dollars (\$50,000,000) may seek a waiver from the Committee based on the following factors:

- (1) The Qualified Residential Rental Project qualifies as a Federally Assisted At-Risk Project; or
- (2) Documentation is provided in the Application indicating why a Qualified Residential Rental Project cannot be developed in phases at a fifty million dollars (\$50,000,000) level. The documentation must be specific and may include, but is not limited to, a site plan detailing the layout of the subject property, unit mix per stage of the phase, any unique features of the property which inhibits phasing, a description of infrastructure costs, and a cost breakdown by phases.

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

Section 5233. Allocation Limits (a) Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools as follows:

<u>Studio and SRO:</u>	<u>\$402,000</u>
<u>One-bedroom:</u>	<u>\$420,000</u>
<u>Two-bedroom:</u>	<u>\$447,500</u>
<u>Three-bedroom:</u>	<u>\$492,500</u>

Four or more bedroom: \$517,500

Article 9. Supplemental Allocations.

Section 5240. Supplemental Allocation Process. (a) Requests for Supplemental Allocations may be submitted during any Allocation Round. Staff shall review each request for Supplemental Allocation and make a recommendation to the Committee regarding any possible award of additional Allocation. Awards of Supplemental Allocations shall be memorialized in a Committee Resolution. Notwithstanding section 5241, all requirements imposed on the initial Allocation, including, but not limited to, expiration of Allocation, Bond issuance deadlines, extensions, transfers of Allocation, carry-forward elections and reporting will be equally applicable to Supplemental Allocations.

(b) Requests for Supplemental Allocation submitted during Allocation Rounds conducted under an Open Application Process may be made with a Supplemental Allocation Request Letter if the Project has received Allocation within the past thirty six (36) months. Supplemental Allocation Request Letters must be accompanied with the following requirements:

- (1) Posting of a performance deposit pursuant to section 5050.
- (2) Payment of a filing fee pursuant to section 5054.
- (3) Evidence of the Bond sale structure pursuant to article 6 of chapter 1.
- (4) An inducement resolution pursuant to section 5033(b)(4).
- (5) A TEFRA Resolution pursuant to section 5033(b)(5).
- (6) Updated sources and uses sections of pages 7-9 with associated attachments E, G, and H of the CDLAC Non-Competitive Application For An Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP)(revised 11-25-14).

(7) An original and copy of the material noted in sub-section (b)(1) through (b)(6) should be submitted in a three ring binder no later than the applicable application deadline.

(c) Supplemental Allocation requests for Projects that have received Allocation more than thirty six (36) months prior or are submitted during a Competitive Application Process must comply with the process for filing a new complete Application pursuant to article 4 of chapter 1 and the appropriate provisions of this chapter.

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

Section 5241. Realignment of Expiration Dates. Projects awarded a Supplemental Allocation during an Open Application Process for which no Bonds were issued from the original award of Allocation shall have the expiration date of the original award extended to match the expiration of the Supplemental Allocation award.

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

Article 10. Scattered Site Applications

Section 5250. Application Requirements. (a) Applications for Scattered Site Projects shall provide all information required for each site. Additional stipulations are as follows:

- (1) Data in Table 1 and Table 2, as defined in section 5170, shall be provided for each site and as a combined total. Each site must independently meet the Committee's income and rent restriction requirements as required in section 5191.
- (2) A Capital Needs Assessment report may combine information for all Project sites in one report.
- (3) A Market Study may combine information for all Project sites in one report; however the Market Study shall have separate Rent Comparability Matrices for each site.
- (4) Acquisition/Rehabilitation Projects where each location is subject to an existing Residential

Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Sections 5200(a) and 5250(a)(3), a comprehensive market study consistent with 26 U.S.C. Section 42(m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the project must meet at least one of the following requirements:

(A) as certified by a third-party market analyst, the proposed tenant paid rents and income targeting will not exceed one hundred-five percent (105%) of the current rents and targeting and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or

(B) as evidenced by copies of executed contracts, the project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.

(5) Evidence of site control shall be required for each site.

(6) Any maps provided shall include each site.

(b) An Applicant may seek a waiver of the Scattered Site five (5) location limit. A written request describing how the project will benefit from waiver of the location limit must be submitted no later than the application due date for the allocation round in which the Project is seeking an allocation.

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

Section 5251. Evaluation Criteria. Each site within an Application for a Scattered Site shall be evaluated individually for points as provided in section 5230. The total points awarded to a Project in any category shall be based on the pro-rata share of total units each site represents. For instance, if only one site meets the threshold for an award of 5 points as provided in 5230(g), and the site represents 40% of total units, the Project shall be awarded two (2) points for this category (40% x 5 points).

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

Article 11. Open Application Process for Federal Housing Administration (FHA) Financed Projects

Section 5255. Application Requirements. (a) A CDLAC Forward Commitment letter may be granted in lieu of an award of allocation until the Applicant receives the HUD Firm Commitment letter for the Project. A complete Open Qualified Residential Rental Pool Application may be submitted when the Project meets the following requirements:

(1) Applications must meet the requirements of a Qualified Residential Rental Project, as described in Chapter 2.

(2) Applications may be submitted at any time with an expected staff review period of at least thirty (30) days.

(3) The Applicant must disclose upon application that the Project is a FHA financed development.

(4) In lieu of a HUD Firm Commitment letter, a MAP Lender commitment letter outlining the FHA financing must accompany the Application.

(5) All awards of allocation following a CDLAC Forward Commitment must occur prior to the last day of the calendar year.

(6) Proof of HUD Firm Commitment Application Submittal will be due within thirty (30) days of CDLAC Forward Commitment Approval.

(b) The Committee shall make an award of allocation for a new Application if the following is submitted no later than the application due date for the allocation round in which the project is seeking an allocation:

(1) a complete Standard QRRP Open Application and application fee;

- (2) a MAP Lender commitment letter outlining the FHA financing; and
- (3) a HUD Development Acknowledgement Letter.

~~(c) The Committee shall make an award of allocation for an existing Applicant who has received a CDLAC Forward Commitment upon submission of a HUD Acknowledgement Letter no later than four (4) days before the first public posting of Committee recommendations as provided in section 5035.~~

(c) All projects requesting an assignment and assumption of an existing HAP Agreement must have submitted their assignment and assumption application to HUD by the CDLAC application date, and must include a HUD Asset Management Letter with the CDLAC application no later than (4) calendar days prior to the first posting.

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

Section 5256. Evaluation Criteria.

- a) Applications will be reviewed according to the Multi-Family Housing criteria, as referenced in Chapter 2, Article 8, Section 5230.
- b) Applications meeting the requirements of Chapter 2, Article 8, Section 5230 will be provided a Forward Commitment in lieu of an award of allocation.
- c) Upon receipt of a HUD Firm Commitment letter, CDLAC will present an allocation recommendation to the Committee for formal approval. The CDLAC closing timeframe will commence once the Committee grants the allocation.

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

Article 12. Expiring Projects in Difficult Development Areas

Section 5258. Eligibility Retention. (a) To confirm that a Qualified Residential Rental Project (QRRP) application is complete in order to retain a project's current year Difficult Development Area/Qualified Census Tract (DDA/QCT) status, an Applicant must submit the following items to CDLAC no later than 16 days prior to the expiration date of the project's DDA status:

- (1) the project's completed Qualified Residential Rental Project application; and
 - (2) a written statement identifying the CDLAC allocation round in which the Applicant intends to seek an allocation, pursuant to a CDLAC generated list of eligible allocation rounds for projects in expiring DDA/QCT areas; and
 - (3) a written request that CDLAC confirm the Application is complete.
- (b) Upon determining that the application is complete, CDLAC will, prior to the expiration of the project's DDA status, provide the Applicant with a letter stating that the application is complete.
- (c) The letter described in subsection (b) shall be void and of no effect unless the bond issuances for the project occur within the federally mandated timeframe for bond issuances applicable to projects with expiring DDA statuses.

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

Chapter 3. Single Family Housing

Article 1. Definitions.

Section 5260. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Applicable Median Family Income” means the applicable median family income defined by 26 U.S.C. section 143(f)(4), except that the definition of income contained in subdivision B of 26 U.S.C. section 143(f)(4) shall not apply to Applicants for a Single Family Housing Program.

“Fair Share Allocation Amount” means the amount of Allocation each Local Issuer shall receive pursuant to the Fair Share Basis definition.

“Fair Share Basis” means that each county shall receive a proportionate share of the amount reserved for Local Issuers based on the population of the county relative to the State’s total population. Populations will be based on data published by the California State Department of Finance Demographics Unit. Where there is more than one Local Issuer in a county, each Local Issuer shall receive a proportionate share of the county’s reservation based on the population of the jurisdictions served by an Issuer relative to the county’s total population, or as agreed upon by the participating Local Issuers.

“Homeownership Assistance” means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must; one, be in a minimum amount of \$7,500 or 3% of the purchase price of the home, whichever is greater; two, be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and three, include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the three (3) year service commitment. Applicants will not be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition. The Committee may establish, or concur with the establishment of, higher assistance limits to ensure program participation in high cost areas.

“MCC Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Mortgage Credit Certificate Program” (revised 10-20-15), which is hereby incorporated by reference.

“MRB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Single-Family Housing Bond Program” (revised 10-20-15), which is hereby incorporated by reference.

“Performance Achievement Index” means the percentage of households that participated in a Single Family Housing Program having met the goals set forth in section 5266 expressed as a percentage of the minimum goal committed to by the Applicant. For example, if the number of households earning eighty percent (80%) or less of the Applicable Median family Income of the area consisted of only 38% of the participants in a program, then based on a committed goal of 40%, the Performance Achievement Index would equal 95% (38% divided by 40%).

“Qualified Census Tract” means any census tract that is designated by the Secretary of Housing and Urban Development pursuant to 26 U.S.C. section 42(d)(5)(C).

“VHLP Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Veteran’s Home Loan Program” (revised 1-11-11), which is hereby incorporated by reference.

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

Article 2. Eligibility Requirements

Section 5265. Application Process. Applications for an Allocation of the Single Family Housing Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an MRB Application, a VHLP Application or an MCC Application.

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

Section 5266. Participation Goals. An Applicant requesting an Allocation for a Single Family Housing Program must commit to the following goals:

(a) A minimum of forty percent (40%) of the participants in the Single Family Housing Program must be households:

(1) Earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; or

(2) Located in a Qualified Census Tract. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. section 143(f)(5) to meet this minimum requirement.

(b) An Applicant that is unable to meet the requirement outlined in subdivision (a) of this section, may request an exemption. However, in no case may less than thirty-five percent (35%) of the participants in the Single Family Housing Program be households:

(1) Earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; or

(2) Located in a Qualified Census Tract. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. section 143(f)(5) to meet this minimum requirement.

(c) To be considered for an exemption an Applicant must submit documentation of the programmatic or economic reasons why the requirement outlined in subdivision (a) of this section cannot be met.

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

Section 5267. Consistency with Adopted Housing Elements. (a) The proposed Single Family Housing Program must be consistent with the adopted housing element(s) for the jurisdiction(s) in which the program is to be operated. The California Department of Housing and Community Development must have determined the jurisdiction’s adopted housing element to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. In addition, as required under Section 65400 of the Government Code, the jurisdiction must have submitted an annual progress report to the California Department of Housing and Community Development for the preceding 12-month calendar year.

(b) Applicants requesting Allocation to implement a new Mortgage Credit Certificate Program shall submit the following:

(1) Copies of the publicly adopted documents required by section 5031(b); and

(2) Copies of the program or operational manual.

(c) Applicants requesting Allocation for an existing Mortgage Credit Certificate Program shall submit the following:

- (1) A certification that the previously publicly adopted documents required in section 5031(b) are valid and remain in force; or
- (2) Provide copies of newly publicly adopted documents.

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

Section 5268. Mortgage Revenue Bond Eligibility. (a) For Mortgage Revenue Bond Programs, in order to be eligible for a new Single Family Housing Program Allocation, the Applicant shall:

- (1) Demonstrate that all proceeds from a Bond issuance in the calendar year three (3) years prior to the current year (other than minor amounts not to exceed \$1 million) have been used to finance loans, or; have been refunded on either a short or long term basis so as to be available to finance loans.
- (2) Certify that any remaining Bond proceeds or authority from an Allocation up to two (2) calendar years prior to the current year will be used either before the use of new Allocation or in conjunction with new Allocation in satisfying federal requirements for such prior funds.

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

Section 5269. Mortgage Credit Certificate Eligibility. (a) For Mortgage Credit Certificate programs, in order to be eligible for a new Single Family Housing Program Allocation, the Applicant must:

- (1) Demonstrate that all remaining Bond authority in the calendar year two (2) years prior to the current year (other than minor amounts not to exceed \$1 million) have been issued to first time home buyers.
- (2) Certify that any Mortgage Credit Certificate authority remaining from the year prior to the current year will be used before the use of new Mortgage Credit Certificate authority.

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

Section 5270. Exceptions to Minimum Requirements. The Committee may consider exceptions to the minimum requirements based upon detailed information submitted by the Applicant that meeting these requirements presents an undue financial burden or economic hardship for the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director. With respect to sections 5268 and 5269, to be granted an exception, an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1,000,000 from prior years.

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

Section 5271. Allocation Method. Applicants for the Single Family Housing Program Pool will be awarded an Allocation on a Fair Share Basis. If a request exceeds an Applicant's Fair Share, additional funding can be provided to the extent allocation is available in the Undesignated Reserve Pool in the allocation year the funding is requested.

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

Article 3. Evaluation Criteria.

Section 5273. Income and Purchase Price Certification. The Applicant's bond or tax counsel must certify that the income and purchase price limits outlined in the CDLAC application for the program were established in accordance with a methodology authorized by the Internal Revenue Code.

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

Section 5275. Minimum Goals. (a) An Applicant receiving an Allocation for a Single Family Housing Program will be held accountable for achieving the minimum goals that were considered by the Committee in awarding the Allocation. The Committee will monitor on an annual basis the programs awarded an Allocation. An Applicant whose Single Family Housing Program did not achieve the participation goals set forth in section 5266 in the previous calendar year, will have their Fair Share Allocation Amount reduced subject to following schedule:

Performance Achievement Index	Percentage of Fair Share Allocation Amount
91% -- 100%	100%
81% -- 90%	90%
71% -- 80%	80%
61% -- 70%	70%
0% -- 60%	60%

(b) The Committee may consider exceptions to the above schedule of reduced Allocation where the Applicant provides full written documentation of the reasons for the underachievement demonstrating that the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair or to the Executive Director.

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

Article 4. Single Family Housing Bonus Pool.

Section 5280. Eligibility Requirements. If the Committee has established a Single Family Housing Program Bonus Pool in accordance with section 5020(c), Applicants may be eligible if the following is demonstrated:

(a) For Mortgage Revenue Bond Programs:

- (1) Demonstrate that Bonds allocated from the current year's Single Family Housing Pool have been issued.
- (2) Certify that proceeds from the current year's allocation are being used to finance loans.
- (3) Justify the need for additional Allocation.

(b) For Mortgage Credit Certificate Programs:

- (1) Demonstrate that Bonds allocated from the current year's Single Family Housing Pool have been converted into Mortgage Credit Certificate authority.
- (2) Certify that Mortgage Credit Certificates are being issued.
- (3) Justify the need for additional Allocation.

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

Section 5281. Evaluation Criteria. (a) The following criteria will be used to evaluate and rank all Applications considered for the Single Family Housing Program Bonus Pool. All Applicants for Bonus Pool Allocation are required to meet a minimum score of fifteen (15) points.

- (b) Five (5) points will be awarded where a minimum of twenty-five percent (25%) of program participants are households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located.
- (c) Five (5) points will be awarded where the program has exceeded its prior year's program performance (based on the most recent yearly data that is available) by ten percent (10%) in assisting households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located.
- (d) Five (5) points will be awarded where the program will address a demonstrable imbalance between jobs and housing in the community or neighborhood based on sufficient evidence provided to the Committee.
- (e) Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in a Community Revitalization Area.
- (f) Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in rural locations to assist units that will be developed under a low-income self-help ownership program or be restricted for sale to low income households engaged in agricultural employment as described in section 7202 of the Health and Safety Code.
- (g) Five (5) points will be awarded where the program is augmented with a down payment assistance program provided by the Applicant or by the other participating jurisdictions.

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

Section 5282. Allocation Method. Applicants for the Single Family Housing Bonus Pool will be awarded an Allocation of the Single Family Housing Program Bonus Pool on a Fair Share Basis.

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

Section 5283. Excess Bonus Pool Distribution. (a) If the Committee has determined that any portion of the Single Family Housing Program Pool and Single Family Housing Bonus Pool is remaining by the final meeting of the year, this amount will be made available to Local Issuers under the Single Family Housing Bonus Pool regardless of their initial Fair Share Basis limit or amount of Allocation awarded in the current year.
(b) Subsequent to the determination made in subdivision (a) of this section, awards in this round will be based on the pro-rata population of the jurisdictions served by the Applicant relative to the total population served by the winning Applicants, but shall not exceed the amount requested in the Application.
(c) If the total amount requested by all Applicants as determined in subdivision (b) of this section is less than the amount available as determined in subdivision (a) of this section, and there are Applicants whose pro-rata portion is less than their request, the Committee shall consider distributing the excess up to the full amount requested.

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

Article 5. Veterans Home Loan Program

Section 5290. Veterans Home Loan Program (VHLP). The Veterans Home Loan Program will utilize Mortgage Revenue Bonds to assist eligible California veterans with advantageous first mortgages that are at a minimum commensurate with similar state administered Single Family Housing Programs with respect to interest rates and Homeownership Assistance. Allocations will be made on the condition that the entire Allocation will be used to provide below market interest rate mortgages to California veterans.

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

Section 5291. VHLP Reporting Requirements. An Applicant receiving an Allocation for a Veterans Home Loan Program shall be responsible for submitting an annual report of program activity to the Committee. The format for the annual report is outlined in Attachment M of the VHLP Application.

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

Chapter 4. Extra Credit Teacher Home Purchase Program

Article 1. Definitions.

Section 5300. Definitions. In addition to the definitions set forth in Government Code sections 8869.82 and 8869.84(g); and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Academic Performance Index” or “API” means the index created by the Public Schools Accountability Act of 1999 to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socio-economically disadvantaged subgroups within schools (Education Code 52052).

“Eligible Administrator” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:

- Administrative Services Credential Administrative Services Credential (Examination)
- Standard Supervision Credential Standard Administration Credential
- General Elementary School Administration Credential General Elementary School Supervision Credential
- General Secondary School Administration Credential General Secondary School Supervision Credential
- General Administration Credential General Supervision Credential
- The Supervision Credential General School Principal or Supervisor Credential

“Eligible Classified Employee” means an employee of a school district employed in a position not requiring certification qualifications and who provides administration or service at a High Priority School.

“Eligible Staff Member” means any person who holds one of the following credentials issued by the California Commission on Teaching Credentialing:

- School Nurse Credential
- Clinical or Rehabilitation Service Credential
- Pupil Personnel Services Credential (e.g. School Counseling, School Social Work, School Psychology and Child Welfare and Attendance)
- Library Media Teacher Service Credential
- Designated Subjects Vocational Education Teaching Credential

“Eligible Teacher” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:

- Single Subject Teaching Credential
- Multiple Subject Teaching Credential
- Specialist Instruction Credential in Special Education
- Education Specialist Instruction Credential
- Standard Elementary Teaching Credential
- Standard Secondary Teaching Credential

- Standard Early Childhood Education Teaching Credential
- Standard Restricted Special Education Teaching Credential
- General Kindergarten-Primary Teaching Credential
- General Junior High Teaching Credential
- General Elementary Teaching Credential
- Special Secondary Teaching Credential in Art
- General Secondary Teaching Credential
- Special Secondary Teaching Credential in Business Ed
- Special Credential for Teaching Exceptional Children
- Special Secondary Teaching Credential in Homemaking
- Special Secondary Credential for Teaching Lip Reading
- Special Secondary Credential for Teaching the Blind
- Special Secondary Limited Teaching Credential in Music
- Special Secondary Credential for Teaching the Partially Sighted Child
- Special Secondary Credential for Teaching Industrial Arts
- Special Secondary Teaching Credential in Speech Arts
- Special Secondary Teaching Credential in Music
- Special Secondary Credential for Teaching the Mentally Retarded
- Special Secondary Credential for Teaching Credential Limited in Agriculture
- Special Secondary Teaching Credential in Correction of Speech Defects
- Special Secondary Teaching Credential in Physical Ed.

“ETCHP Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for an Extra Teacher Credit Home Purchase Program” (revised 1-11-11), which is hereby incorporated by reference.

“Extra Credit Teacher Home Purchase Program Eligibility Certificate” means the certification to be completed and submitted by the employing school district, County Office of Education or local Board of Education that certifies to all of the following: The Program Participant is an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member; the Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or dismissal of the Program Participant; the entity completing the certificate has verified with the California Commission on Teacher Credentialing that the credential of the Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or revocation of the credential of the Program Participant; and the personnel file of the Program Participant reflects that he or she has not been dismissed from employment with any school or school district for any reason, and that he or she has not been the subject of a disciplinary suspension that has been upheld.

“High Priority School” means a California K-12 public school ranked in the bottom 50% of all schools based on the most recent Academic Performance Index, i.e. schools receiving an API Statewide Ranking of 1, 2, 3, 4 or 5.

“Homeownership Assistance” means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must: Be in a minimum amount of \$7,500 or 3% of the purchase price of the home, whichever is greater; be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the three (3) year service commitment. Applicants will not

be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition. The Committee may establish, or concur with the establishment of, higher assistance limits to ensure program participation in high cost areas.

“National Board Certification” means certification from the National Board for Professional Teaching Standards based upon successful completion of a voluntary assessment program covering a variety of subject areas and student developmental levels.

“Program Participant” means an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member who receives a Mortgage Credit Certificate or a loan funded by Mortgage Revenue Bonds from an Issuer receiving an Allocation from the Extra Credit Teacher Home Purchase Program Pool.

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

Article 2. Eligibility Requirements

Section 5310. Application Process. Applications for an Allocation of the Extra Credit Teacher Home Purchase Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an ECTHP Application.

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

Section 5311. Application of Standards. Issuers of Mortgage Revenue Bonds or Mortgage Credit Certificates pursuant to this chapter may apply these eligibility standards to borrowers without regard to the date of receipt of Allocation.

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

Section 5312. Applicant Eligibility. An Applicant requesting an Allocation from the Extra Credit Teacher Home Purchase Program Pool must be an approved Issuer of Mortgage Credit Certificates or Mortgage Revenue Bonds and must propose an Extra Credit Teacher Home Purchase Program whereby Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds will be made available to Eligible Teachers, Eligible Administrators, Eligible Classified Employees, and Eligible Staff Members. Issuers of Mortgage Credit Certificates and Mortgage Revenue Bonds may apply jointly.

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

Section 5313. Program Goals. The Extra Credit Teacher Home Purchase Program proposed by the Applicant must be for the purpose of recruiting and retaining Eligible Teachers, Eligible Administrators, and Eligible Classified Employees in High Priority Schools, and the Applicant must commit to and describe its plan to promote, publicize and market the program in conjunction with school district(s) and county office(s) of education to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees.

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

Section 5314. Program Provisions. The Extra Credit Teacher Home Purchase Program proposed by the Applicant must, at a minimum, include all of the following:

- (a) A specific plan that gives priority to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees working in High Priority Schools ranked 1, 2 or 3 in the API rankings.
- (b) A provision that Eligible Teachers, Eligible Administrators, and Eligible Classified Employees include such individuals who are assigned to a school district but provide administration or service to at least one High Priority School for the length of the service commitment.
- (c) A provision restricting the program to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees who agree, through a written service commitment, to teach, provide administration or service in a High Priority School for a minimum of three (3) years continuously from the date the Mortgage Credit Certificate or the loan funded by Mortgage Revenue Bonds is awarded to the Program Participant, and for whom an Extra Credit Teacher Home Purchase Program Eligibility Certificate has been completed and submitted by a duly authorized representative of the employing school district or county office of education.
- (d) A written service commitment of the Program Participant. Program Participants are required to certify to the Applicant when they have fully performed the service commitment or request to be excused from the service commitment pursuant to subdivision (e) of this section. Early pay off of a loan does not constitute an excuse from the service commitment. Certifications of service commitment must be signed by either:
 - (1) A duly authorized representative of the employing school district or county office of education; or
 - (2) The Program Participant under penalty of perjury.
- (e) A provision by which Program Participants will be excused from their service commitment in the following cases:
 - (1) The Program Participant has been continuously employed at the same school since the date of the service commitment, but the school is no longer considered a High Priority School;
 - (2) The Program Participant's departure from the High Priority School was involuntary, and was not the result of disciplinary action, and she/he accepts another eligible position at a California K-12 public school within one year of the date of departure;
 - (3) Hardship cases, including but not limited to serious illness, death and divorce;
 - (4) Occurrences covered under the Family Medical Leave Act or the California Family Rights Act;
 - (5) Other exceptions as proposed by the Applicant in the Application and approved by the Committee. The Committee may delegate this authority to the Chair or the Executive Director.
- (f) A priority system such that:
 - (1) In the event an Applicant's program is oversubscribed, the Applicant must provide assistance to Eligible Teachers and Eligible Administrators before providing such assistance to other eligible Program Participants.
 - (2) Eligible Teachers with National Board Certification shall have priority over Eligible Teachers without such certification.
 - (3) Applicants may determine how each priority will be implemented (e.g., a program set-aside) and shall indicate such in the Application.

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

Article 3. Evaluation Criteria

Section 5320. Evaluation Criteria. Upon a determination that an Application meets the minimum requirements pursuant to article 2 of this chapter, Applications will be evaluated based on the following criteria:

- (a) The amount of the Homeownership Assistance to be provided and the percentage of Program Participants to whom it will be provided.

- (b) The strength of the Applicant's plan to publicize, promote and market the Extra Credit Teacher Home Purchase Program to School Districts, County Offices of Education, Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.
- (c) The extent to which Applicants show the greatest need within the Applicant's jurisdiction to recruit and retain Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.
- (d) The Applicant's past performance, if any, in using past Allocations from the Extra Credit Teacher Home Purchase Program Pool.

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

Section 5321. Allocation Amount. The Committee will determine the amount allocated to each Applicant based upon the evaluation criteria set forth in section 5320, the number of Applicants applying in the Allocation Round, and the amount of allocation available in the Extra Credit Teacher Home Purchase Program Pool. The Committee may, in its sole discretion, allocate a larger portion of the Extra Credit Teacher Home Purchase Program Pool to Applicants who administer statewide Mortgage Credit Certificate and Mortgage Revenue Bond programs.

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

Article 4. Reporting Requirements

Section 5330. Specific Reports. The Applicant shall annually report to the Committee, no later than January 31 of each year, the following information:

- (a) The number of loans or Mortgage Credit Certificates issued aggregated by calendar year;
- (b) The schools at which Program Participants are employed, aggregated by API rank and the percent of non-credentialed teachers employed at the school;
- (c) The number of Program Participants that have paid off their loans prior to the completion of the service commitment;
- (d) The number of Program Participants that successfully complete the service commitment during the prior calendar year;
- (e) The number of Program Participants that are currently serving but have not completed the service commitment;
- (f) The number of Program Participants that were excused during the prior calendar year from the service commitment under section 5314(e);
- (g) The number of Program Participants during the prior calendar year that left a High Priority School without fulfilling their service commitment and who were not eligible for one of the exceptions set forth in section 5314(e);
- (h) The number of Program Participants that have not responded to the Applicant's request for certification of the service commitment; and
- (i) The total amount of assessment, if any, collected pursuant to section 5340.

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

Article 5. Noncompliance

Section 5340. Monetary Assessment. Where a Program Participant fails to fulfill the requirements of the service commitment and has not been excused from the service commitment, the Applicant may recover as an assessment from the Program Participant a monetary amount equal to the lesser of the following:

- (a) One-half (1/2) of the Program Participant's net proceeds from the sale of the related residence; or
- (b) The amount of monetary benefit conferred on the Program Participant as a result of the loan or Mortgage Credit Certificate, offset by the amount of any federal recapture, as defined by 26 U.S.C. section 143(m).

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

Chapter 5. Single Family Housing Home Improvement and Rehabilitation Program

Article 1. Definitions.

Section 5342. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Home Improvement and Rehabilitation MCC Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Home Improvement and Rehabilitation Mortgage Credit Certificate Program” (revised 12-12-12), which is hereby incorporated by reference.

“Home Improvement and Rehabilitation MRB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Home Improvement and Rehabilitation Mortgage Revenue Bond Program” (revised 12-12-12), which is hereby incorporated by reference.

“Qualified Home Improvement Loan” means a loan as defined by Title 26 of U.S.C. section 143(k)(4)

“Qualified Rehabilitation Loan” means a loan as defined by Title 26 of U.S.C. section 143(k)(5)

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

Article 2. Eligibility Requirements

Section 5343. Application Process. Applications for an Allocation of Home Improvement and Rehabilitation MCCs or MRBs shall be considered in accordance with the provisions of Chapter 1 and the submission of a Home Improvement and Rehabilitation MCC Application or a Home Improvement and Rehabilitation MRB Application. The maximum requested amount of Allocation per Application shall not exceed \$20 million. Should the Application round be deemed non-competitive, the Executive Director may waive this cap.

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

Section 5344. Minimum Requirements. (a) An Applicant requesting an Allocation for a Home Improvement and Rehabilitation Program must commit to a minimum of twenty percent (20%) of the participants in the Home Improvement and Rehabilitation Program being:

- (1) Households located in a Qualified Census Tract; or
- (2) Households earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. section 143(f)(5) to meet this minimum requirement,

(b) For Home Improvement and Rehabilitation Mortgage Revenue Bond Programs, in order to be eligible for a new Home Improvement and Rehabilitation Program Allocation, the Applicant shall:

- (1) Demonstrate that all proceeds from a Bond issuance in the calendar year three (3) years prior to the current year (other than amounts that are insufficient to fund one Home Improvement and Rehabilitation loan) have been

used to finance loans, or; have been refunded on either a short or long term basis so as to be available to finance loans.

(2) Certify that any remaining Bond proceeds or authority from an Allocation up to two (2) calendar years prior to the current year will be used either before the use of new Allocation or in conjunction with new Allocation in satisfying federal requirements for such prior funds.

(c) For Home Improvement and Rehabilitation Mortgage Credit Certificate programs, in order to be eligible for a new Home Improvement and Rehabilitation Program Allocation, the Applicant must:

(1) Demonstrate that all remaining Bond authority in the calendar year two (2) years prior to the current year (other than amounts that are insufficient to fund one Home Improvement and Rehabilitation MCC) have been issued.

(2) Certify that any Mortgage Credit Certificate authority remaining from the year prior to the current year will be used before the use of new Home Improvement and Rehabilitation Mortgage Credit Certificate authority.

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

Section 5345. Exceptions to Minimum Requirements. With respect to subsections (b) and (c) of section 5344, the Committee may consider exceptions to the minimum requirements based upon detailed information submitted by the Applicant stating the reasons for the underachievement and explaining why the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director. To be granted an exception, an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1 million from prior years.

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

Article 3. Evaluation Criteria.

Section 5346. Past Performance. Applicants must demonstrate that Home Improvement and Rehabilitation Mortgage Credit Certificate Program Allocation from the past year has been used or are designated to be used to issue Mortgage Credit Certificates.

The Committee may consider exceptions to the Past Performance requirement based upon detailed information submitted by the Applicant stating the reasons for the underachievement and explaining why the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director. To be granted an exception, an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1 million from prior years.

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

Section 5347. Potential Public Benefits Calculation. For each Allocation round, programs will be evaluated and ranked based on how effectively they will achieve the following public benefits relative to their competitor's performance: Serving the maximum number of households earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; ensuring the lowest interest rates to borrowers; and serving the maximum number of households with the allocation.

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

Article 4. Reporting Requirements.

Section 5348. Program Performance Monitoring. Applicants will be required to track the information identified in Exhibits 1 and 2 of their applicable Home Improvement and Rehabilitation MCC or MRB Application and report that information to the Committee by March 1 of each calendar year.

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

Chapter 6. Small-Issue Industrial Development Bond Program.

Article 1. Definitions

Section 5350. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“ANSI” means the American National Standards Institute which facilitates the development of American National Standards by accrediting standards developing organizations for a wide variety of products, manufacturing and industrial processes, and distribution processes for goods, services and energy.

“Forest Stewardship Council” means the independent, non-governmental, not-for-profit organization established in 1993 to promote the responsible management of the world’s forests in cooperation with the ISO.

“IDB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Small-Issue Industrial Development Bond Project” (revised 7-22-14), which is hereby incorporated by reference.

“ISO” means the International Organization of Standardization

“Job Retention” means full time jobs that will be retained in California by the Project Sponsor. The company must be actively seeking to relocate jobs out of the state; forced to eliminate jobs in order to remain in operation; at risk of closing their local operations; or be acquired prior to closing or relocating under new ownership that commits to maintain company operations and retain existing jobs. The number of jobs retained shall be calculated on the number of full time jobs that are on the company payroll at the time of Application. The Job Retention period will begin upon issuance of the Bonds and must be met within two (2) years after issuance of Bonds. The Job Retention requirement may be monitored by CIDFAC and CIEDB utilizing Employment Development Department job retention statistics.

“Median Hourly Production Occupation Wage” means the median hourly wage for production occupations as defined by the U.S. Bureau of Labor Statistics.

“Qualified Retirement Plan” means a retirement satisfying the requirements of 26 U.S.C. sections 401(a) or 403(a) and the Employee Retirement Income Security Act of 1974 (ERISA).

“Renewable Energy” means any device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form

convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies pursuant to California Public Resources Code 26003(i)(1):

- Biomass
- Solar thermal.
- Photovoltaic.
- Wind.
- Geothermal.

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

Article 2. Applications

Section 5360. Application Process. Applications for an Allocation of the Small-Issue Industrial Development Bond Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an IDB Application.

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

Section 5361. Allocations to CIDFAC. The Committee may award an Allocation to CIDFAC for purposes of sub-awarding Small-Issue Industrial Development Bond Allocation to Applicants on behalf of the Committee. In awarding the Allocation to CIDFAC, the Committee will authorize CIDFAC to transfer portions of the Allocation to Local Issuers and the CIEDB for purposes of issuing bonds under the Small-Issue Industrial Development Bond Program.

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

Section 5362. Transfer of Allocation by CIDFAC. CIDFAC will transfer, by resolution, Allocation to Local Issuers based on the total scores of the applicable Small-Issue Industrial Development Program Projects competing in the same month. The Allocations will be awarded in order of high score to low score. CIDFAC may establish a minimum point threshold for receiving Allocation.

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

Section 5363. Reporting Requirements. CIDFAC will report each transfer of Allocation to the Executive Director. Applicants receiving Allocation under the Program shall comply with the reporting requirements contained in article 11 of chapter 1.

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

Article 3. Evaluation Criteria

Section 5369. Minimum Requirements. Applications for a Small-Issue Industrial Development Bond Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Applicants are not required to have obtained ministerial approvals at the time of Application.

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

Section 5370. Evaluation Criteria. (a) Community Economic Need (20 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

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

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

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

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

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

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

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

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

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

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

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

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

(C) Ten (10) points to Projects creating a 10% to 20% increase in the manufacturer's workforce.

(2) Job Retention (10 points maximum). Applications will be eligible for Job Retention points when jobs have been retained pursuant to the Job Creation definition as provided in section 5000. To qualify for Job Retention points, the jobs retained must be those that would be lost in the absence of the requested Allocation. Points will be awarded provided the following:

(A) Certification that the Project Sponsor will retain the specified jobs for a two (2) year period after the issuance of Bonds. The Committee may verify jobs retained at any time during the two (2) year period, or

(B) A verification letter from the appropriate local governmental entity stating that the Project Sponsor's business is at risk of closing local operations, and that the requested Allocation and retention of the Project Sponsor's business is an integral part of its plan to maintain the health of the local economy and retain employment, or

(C) Written evidence from the Project Sponsor that the company within two (2) years prior to the submission of an Application for tax-exempt IDB financing, engaged a site selector to find possible relocation sites.

(c) Workforce and Economic Development (15 points maximum)

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

(2) Workforce Training (5 points maximum). To qualify for points in this category, the Project Sponsor must provide copies of official documentation of its current or pending participation. Such documentation shall include copy of an executed contract between the Project Sponsor and the provider; or a formal letter from the provider addressed to the Project Sponsor acknowledging the Project Sponsor's current or pending participation in the program. Points will be awarded where the Project Sponsor participates in one or more training, retraining or apprenticeship programs offered by any of the following state agencies, certified training facilities or postsecondary institutions:

(A) The California Employment Training Panel;

(B) The California Department of Industrial Relations;

(C) A community college;

(D) University;

(E) Adult school; or

(F) A regional occupational program or private training agency approved by the California Bureau of Private Postsecondary and Vocational Education.

(3) Exports Outside of California (5 points maximum). To qualify for points in this category, an officer or owner of the Project Sponsor must certify in writing on Project Sponsor letterhead that it exports, or in the case of the construction of a new manufacturing facility at a new Project site, anticipates that it will export as part of its business plan as follows:

(A) In excess of 30% of products manufactured at the Project site (5 points);

(B) Over 20% and up to 30% of its products manufactured at the Project site (3 points);

(C) Up to 20% of its products manufactured at the Project site (2 points);

(d) Payment of Employee and Dependent Medical, Dental, Vision and Retirement Costs (20 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:

(1) Health, Dental and Vision (15 points maximum).

(A) Fifteen (15) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$330 or more per month toward the cost of the medical, dental, or vision for each participating employee of the Project.

(B) Ten (10) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$220 or more, but less than \$330, per month toward the cost of the medical, dental, or vision benefits for each participating employee of the Project

(C) Five (5) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$110, but less than \$220, per month toward the cost of the medical, dental, or vision benefits for each participating employee of the Project.

(2) Retirement Plans (5 points maximum). To qualify for points in this category, the Project Sponsor must provide specific documentation to show it contributes to a Qualified Retirement Plan or other retirement account for each participating employee and must confirm that it will offer such benefits to employees hired in accordance with the representations made pursuant to the Job Creation definition as provided in section 5000.

(e) Average Hourly Wage (10 points maximum). Applications will be awarded points based on a comparison of the Project Wage to the most recent Job Wage. The Project Wage will be divided by the Job Wage and multiplied by one-hundred (100). Points will be awarded as:

(1) Ten (10) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage.
(2) Six (6) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage.

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

(f) Environmental Stewardship (27 points maximum).

(1) Land Use (3 points maximum). Points will be awarded to Projects that involve the reuse of the following:

(A) Vacant or abandoned buildings; or

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

(2) Public Transportation (4 points maximum).

(A) In areas where there is no public transportation system, three (3) points will be awarded to Applications where the Project Sponsor has an adopted transportation system management plan, or;

(B) Four (4) points will be awarded to Projects that are located within one-quarter ($\frac{1}{4}$) of a mile of a regular route stop within a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter ($\frac{1}{4}$) mile radius of a Public Transportation Corridor and where the Project Sponsor provides written evidence of offering public transit subsidies for employees at the Project site.

(3) Energy Efficiency/ Renewable Energy (10 points maximum).

(A) Five (5) points will be awarded to Projects that utilize designs, materials or techniques to reduce energy usage by at least fifteen (15%) on the part of the Project Sponsor compared to the following benchmarks:

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

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

(B) Five (5) points will be awarded to Projects that involve the installation and use of Renewable Energy equipment to power the production process. The Project Sponsor must provide written documentation from its utility company which specifies the installation or planned installation of Renewable Energy equipment.

(4) Manufacturer of Certified Environmentally Preferable Products (5 points maximum). Points will be awarded to Projects which produce or will produce environmentally friendly products certified by an ANSI accredited standards developing organization (e.g., Green Seal, Inc.) or by a widely-recognized and reputable organization accredited as a certifier by an ANSI accredited standards developing organization or by a Forest Stewardship Council (e.g., Scientific Certification Systems, Inc.). The Project Sponsor must provide the current, official documentation of the certification and must provide the percentage of the overall output that is comprised of the certified products.

(5) U.S. Green Building Council (USGBC) LEED-Certified Manufacturing Facility (5 points maximum). Points will be awarded to Projects for which Bond proceeds will be used to construct U.S. Green Building Council (USGBC) LEED-certified facilities, or to make improvements to existing facilities that will qualify it for a LEED certificate. The Project Sponsor must provide either:

(A) Official documentation of its registration (including evidence of payment of the registration fee) with the USGBC to obtain LEED certification in cases where the Project involves the construction of a new facility and construction has not begun or is not complete at the time of Application; or

(B) Official documentation of receipt of a Silver, Gold or Platinum LEED Certification in cases where construction or improvements and the certification process are completed.

(g) Leverage (5 points maximum). Points will be awarded to Projects for which Taxable Debt, a taxable loan, and/or private funds or equity will supplement the use of the tax-exempt Bond financing. The Project Sponsor

must provide overall Project costs and certify that one or more of these other sources of financing will be used for Projects expenses with points awarded for achieving the following levels:

(1) Five (5) points for Projects where greater than twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.

(2) Three (3) points for Projects where greater than ten percent (10%) and up to twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.

(h) Ranking Applications. Where two or more Applications are awarded the same number of points pursuant to this section, the Executive Director will divide the Allocation amount requested by each such Application by the number of jobs created by the related Project, and will rank the Applications based on the lowest amount of requested Allocation per job(s) created.

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

Section 5371. Enterprise/Empowerment Zone Facility Bond Projects. For a proposed Enterprise/Empowerment Zone Facility Bond Project for which the Applicant has determined that Job Creation is the Project's major public benefit, Applications shall be considered pursuant to this chapter.

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

Article 4. Small Business Program

Section 5380. Allocations to CIDFAC. The Committee may award an Allocation to CIDFAC for purposes of administering a Small Business Program. In awarding the Allocation to CIDFAC, the Committee will authorize CIDFAC to transfer portions of the Allocation to Local Issuers and the CIEDB for purposes of issuing Bonds under the Program on behalf of qualified small businesses. An Applicant may submit an Application to the Small Business Program or the Small-Issue Industrial Development Bond Program; however, an Applicant may not submit Applications for the same Project to both programs concurrently. Small Business Program Applications shall be considered pursuant to this chapter.

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

Chapter 7. Exempt Facility Bond Program

Article 1. Definitions

Section 5400. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter-are defined as follows:

"California Environmental Quality Act Review Process" means a process of environmental review as defined by California Public Resources Code sections 21000, et seq.

"EXF Application" means the Application titled "Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for an Exempt Facility Project" (revised 1-11-11), which is hereby incorporated by reference.

"First Tier Business" means (1) a business that (a) is primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste, (b) is a privately-held or employee-owned entity whose ownership interests are not available to members of the public, and (c) has fewer than 3,000 employees (together with affiliates), based on the average employees per pay period during the most recent twelve (12) months before submittal of an Application;

or (2) a business which is not primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste that is classified as a small business under regulations of the California Pollution Control Financing Authority (Title 4, California Code of Regulations, sections 8001 et seq.).

“Regulatory Mandate” means a local, state or federal government mandate including, but not limited to, Public Resources Code, section 40000 et seq., a local public health department notice and order, a Regional Water Quality Control Board issued cease and desist order, or similar directive.

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

Article 2. Applications

Section 5410. Application Process. Applications for an Allocation of the Exempt Facility Project Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an EXF Application.

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

Section 5411. Allocations to CPCFA. The Committee may award an Exempt Facility Allocation to the California Pollution Control Financing Authority (CPCFA) for the purposes of administering the Exempt Facility Project Pool. In awarding the Allocation to CPCFA, the Committee will authorize CPCFA to allocate portions of the award to Project Sponsors for purposes of issuing Bonds.

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

Article 3. Eligibility Requirements.

Section 5420. Justification of Tax-Exempt Funds. An Application for an Exempt Facility Project must demonstrate that there will be more public benefits (e.g. a reduction in fees to the consumer) if the Project is financed with tax-exempt Bond financing than with any other means of financing available to the Project Sponsor. At a minimum, documentation must compare tax-exempt Bond financing with other means of financing available to the Project Sponsor, such as conventional bank loans, lines of credit, taxable Bonds, and other instruments.

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

Section 5421. CEQA Requirements. The Applicant must have commenced the California Environmental Quality Act Review Process at the time of Application, if applicable to the Exempt Facility Project proposed. The notice of determination required under Public Resources Code section 21152 for the Exempt Facility Project must have been published at the time of Application and the statute of limitations as defined by Public Resources Code section 21167 for filing an appeal to the decision must have expired prior to the Allocation Round during which the Application will be considered. If an appeal has been filed, the Executive Director may consider factors including, but not limited to, the following in determining whether this requirement has been met:

- (a) Whether the appellant has posted a bond.
- (b) Whether the appellant has sought injunctive relief.
- (c) The outcome of the litigation at the trial court level.

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

Section 5422. Permits. The Applicant must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Applicants are not required to have obtained ministerial approvals at the time of Application.

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

Section 5423. Review of New Technologies. The Committee will perform a formal policy review of Projects other than those submitted by the California Pollution Control Finance Authority that involve technologies unfamiliar to the Committee and/or for industries that have not previously requested an award of Allocation. The Committee may request assistance of other federal, state, and local agencies when conducting this review. The Applicant or Project Sponsor may be asked to provide additional information relevant to the Committee's review. The review process shall result in a written policy concerning the advisability of awarding Allocation based on but not limited to the Project's public benefit, financial feasibility and environmental impact.

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

Article 4. Evaluation Criteria

Section 5430. Environmental Goals. The Application will be reviewed for a determination whether the Project, as a whole, promotes or protects environmental quality in connection with the construction and operation of the Exempt Facility Project. Specific factors include:

- (a) Whether the Exempt Facility Project is designed to minimize impact to or may result in an improvement of air quality.
- (b) Whether the Exempt Facility Project is designed to minimize impact to or may result in an improvement of water quality.
- (c) Whether the Exempt Facility Project will result in an improvement in energy efficiency.
- (d) Whether the Exempt Facility Project will result in the recycling of commodities (glass, aluminum and other marketable materials) and green waste (composting and other organic wastes).
- (e) Whether the Exempt Facility Project achieves its environmental goals on a cost effective basis to the consumer.

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

Section 5431. Disposal of Solid Waste. No award of allocation shall be made to any Project that does not comply with all applicable state and federal environmental regulations regarding the safe disposal of solid waste.

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

Section 5432. Non-Solid Waste Projects. Applications for Exempt Facility Projects or programs, other than solid waste disposal facilities not otherwise included in these regulations, but eligible for consideration for Qualified Private Activity Bond Allocation as an Exempt Facility Project will be considered pursuant to section 5423. Projects may include, but are not limited to, Bonds issued by a government agency to acquire any property from an investor-owned utility, sewage facilities, facilities for the furnishing of water, facilities for the local furnishing of electric energy or gas, qualified hazardous waste facilities, mass commuting facilities, local district heating or cooling facilities, environmental enhancements of hydroelectric generating facilities, high-speed inter-city rail facilities, and the equipment only purchase programs administered by the California Pollution Control

Financing Authority. Applications shall be reviewed on a Project-by-Project basis considering the public benefits proposed.

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

Section 5433. Use of Taxable Debt. The Application will be reviewed for a determination whether the Project will use taxable bond financing or other forms of financing (not including the minimum cash equity required by the Credit Enhancer) in addition to tax-exempt Bond financing in a manner such that the taxable bond financing or other forms of financing (not including the minimum cash equity required by the Credit Enhancer) will supplant the use of tax-exempt Bond financing.

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

Section 5434. Local Support. The Application will be reviewed for a determination of whether documentation submitted by local regulatory agencies or local government demonstrates support of the Project and whether the Project supports and contributes to local waste management policy and planning. Examples of such support may include the identification of the Exempt Facility Project in the applicable elements of an approved county or regional agency integrated waste management plan.

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

Section 5435. Conversion of Taxable Debt. The Committee may approve Projects that convert taxable debt to tax exempt debt as economic conditions and annual demand for the State Ceiling allow.

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

Article 5. Allocation Procedure

Section 5440. Ranking. Upon a determination that an Application has met the minimum requirements set forth in article 3 and article 4 of this chapter, Allocations from the Exempt Facility Project Pool will be ranked using the following criteria:

- (a) Allocations will be first awarded to Applications in which the Project Sponsor is a First Tier Business, and the Exempt Facility Project proposed by the Application is in direct response to a Regulatory Mandate.
- (b) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations under subdivision (a) of this section, the Committee will then consider other Applications in which the Project Sponsor is a First Tier Business, but the proposed Exempt Facility Project is not in response to a Regulatory Mandate.
- (c) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations pursuant to subdivisions (a) and (b) of this section, the Committee will then consider Applications in which the Project Sponsor is not a First Tier Business, but the Exempt Facility proposed by the Application is in direct response to a Regulatory Mandate.
- (d) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations pursuant to subdivisions (a), (b), or (c) of this section, the Committee will then consider all other Applications for Exempt Facility Projects.

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

Chapter 8. Student Loan Programs

Article 1. Definitions

Section 5450. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“CEFA” means the California Educational Facilities Authority.

“Direct Lender” means an entity that originates loans directly to eligible borrowers in the state and does not include loans made for the purpose of consolidating or otherwise combining existing student loans.

“Program Sponsor” means a California nonprofit corporation organized pursuant to section 150(d) of the Internal Revenue Code of 1986, as amended, that possesses the authority to directly or indirectly make or finance student loans under the Higher Education Act of 1965, as amended, or a state agency.

“Student Loan Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Student Loan Program” (revised 1-11-11), which is hereby incorporated by reference.

“Student Loan Self-Scoring Sheet” means the document provided in the Application for a Student Loan Program.

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

Article 2. Eligibility Requirements

Section 5460. Application Process. Applications for an Allocation of the Student Loan Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of a Student Loan Application.

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

Section 5461. Minimum Requirements. In order to be considered for an Allocation for a Student Loan Program, an Applicant must meet the following minimum requirements:

(a) California Non-profit Status. Must be a California nonprofit corporation organized pursuant to section 150(d) of the Internal Revenue Code of 1986, as amended, that possesses the authority to directly or indirectly make or finance student loans under the Higher Education Act of 1965, as amended, or be a state agency.

(b) CEFA Requirement. Before applying to the Committee for allocation of a portion of the State Ceiling pursuant to Government Code section 8869.82 and 8869.85, an entity that is seeking to issue qualified scholarship funding bonds must first obtain CEFA board approval, pursuant to Title 4, California Code of Regulations, section 9073(a), unless such entity became a qualified scholarship funding corporation as defined in subsection (d) of section 150 of Title 26 of the United States Code prior to January 1, 2006. CEFA may in its discretion determine not to grant approval to any entity regardless of whether the entity meets the threshold criteria as an Eligible Candidate as defined in Title 4, California Code of Regulations, section 9072(b). CEFA will consult and coordinate with the Committee prior to making a final determination.

- (c) A portfolio itemizing the total dollar amount and corresponding percentage of student loans originated by the Applicant which assist financially needy borrowers in California. The data relied upon may be direct or derived from sources deemed by the Executive Director to be accurate.
- (d) A proposal of interest rates and other discounts (time period is the next academic year commencing July 1 following the award of Allocation), a description and dollar amount of discounts (i.e. interest rate, guarantee fee, origination fee, etc.). Note: Information will be used in analysis of Application in the subsequent year.
- (e) A description of marketing activities and status as a lender, anticipated total dollar amount and number of student loans made to two year, four year and other schools, the eligibility requirements for a loan, the benefits to student borrowers, the mechanism(s) or system(s) for the direct delivery of loans to eligible students and any other features unique to the Program.
- (f) Demonstrate actual participation in the California Student Loan Market using the STUDENT MARKETMEASURE Standard Report 10D or other sources deemed by the Executive Director to be accurate. Applicant must include information from the most recently completed federal fiscal year with their Application.
- (g) Completion of the Student Loan Self-Scoring Sheet to show what they anticipate to receive in allocation.

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

Article 3. Evaluation Criteria

Section 5470. Evaluation and Ranking. The following criteria will be used to evaluate, rank, and award Allocations from the Student Loan Program Pool:

- (a) Allocations from the Student Loan Program Pool will be first awarded to Applications in which the Applicant is a Direct Lender and evaluated based on the following criteria:
 - (1) The total dollar amount and number of student loans originated by the Applicant in California. The data relied upon will be derived from the STUDENT MARKETMEASURE Standard Report 10D or other sources deemed by the Executive Director to be accurate. The time period shall be the most recently completed federal fiscal year. The Applicant's pro-rata share of the Student Loan Program Pool will in part be determined by the total dollar amount of student loans originated in California. The Committee will consider the incongruity between the federal fiscal year and the Allocation Round when evaluating the data.
 - (2) Proposed total cost of borrowing per borrower for the next academic year. This cost estimate should include origination fees, interest costs, and all other fees or expenses incurred by a borrower.
 - (3) Previous year average interest rate. Information provided must refer to the time period of the current academic year. In addition, this information must include averages and weighted averages for the following figures for each student loan program:
 - (A) Statutory interest rate.
 - (B) Total discount
 - (C) Discounted interest rate. For this time period, the Applicant must show the percentage breakdown of usage for all federal student loan programs: Subsidized Stafford, Unsubsidized Stafford, PLUS Parent and PLUS Graduate. This breakdown will be used to determine the weighted averages for the aforementioned figures.
 - (4) Comparison of Proposed and Actual Interest Rate. The weighted averages will be used to determine whether or not the Applicant was within 25% of the discounted interest rate that they proposed in the prior year. Based on the Committee's assessment, an Applicant could be rewarded and/or penalized for the actual discounted interest rate they provided during the current academic year.
 - (5) The extent to which the Applicant timely disburses student loans as evidenced by its use of previous and existing allocations from the Committee for direct lender student loan programs. The Committee will evaluate the impact of unused Bond proceeds on the Applicant's present demand for Allocation.
- (b) Subsequent to the determination made pursuant to subdivision (a) of this section, Allocation that remains unallocated will then be considered for Applications in which the Applicant is a purchaser of student loans in the secondary market and evaluated based on the following criteria:

- (1) The degree to which financially needy students benefit based on an evaluation of the percentage of borrowers with subsidized Stafford loans currently held in portfolio versus borrowers with only unsubsidized Stafford loans.
- (2) The use of recycled funds for additional programs that may benefit students other than loan purchase programs, such as grants, new loans, scholarships, student outreach, and borrower benefit programs offered by the Applicant.
- (3) The leveraging of the Qualified Private Activity Bond Allocation awarded to the Applicant through the use of taxable bonds and other taxable securities.
- (4) The extent to which the Applicant has timely and effectively used previous and existing allocations from the Committee for secondary market loan purchase programs.

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

Chapter 9. Recovery Zone Economic Development Bond (RZEDB) Program

Article 1. The American Recovery and Reinvestment Act of 2009 (ARRA)

Section 5480. U.S. Treasury Designated Recovery Zone Bond Allocations. The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities have been excluded: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code; Section 1400U-1, Internal Revenue Code.

Article 2. Application Process for the Recovery Zone Economic Development Bond Reallocation Pool

Section 5490. Application Process. Allocations for the RZEDB Reallocation Pool shall be considered pursuant to article 4 of chapter 1 and the submission of a complete RZEDB Application.

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

Section 5491. Minimum Threshold Requirements. Applications for the RZEDB Reallocation Pool will be subject to the following criteria:

- (a) The maximum face amount of Bonds which may be reallocated to a Qualified Recovery Zone Bond Issuer shall not exceed ten million dollars (\$10,000,000) per Project. In the event the Allocation Round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum reallocation limit.
- (b) One-hundred percent (100%) of the available Project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities:
 - (1) Capital expenditures paid with respect to property located in such zone;
 - (2) Expenditures for public infrastructure and construction of public facilities; and/or
 - (3) Expenditures for job training and education programs.

- (c) A legal memo from bond counsel which states that, based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Counsel must cite relevant federal tax code in their memo.
- (d) The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of reallocation not to exceed ten percent of the original reallocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of Allocation and Project need.
- (e) The Committee may grant an extension of the expiration date of the reallocation of up to thirty (30) calendar days but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.
- (f) A county or large municipality that is only requesting all or a portion of reallocation that was voluntarily waived need only provide a written request and documentation that the Project is ready to issue Recovery Zone Economic Development Bonds prior to the expiration date of December 31, 2010.
- (g) Counties and large municipalities assigned a Recovery Zone Economic Development Bond allocation must designate the area that Bonds will be utilized in a Recovery Zone and shall include the basis for the designation per 26 U.S.C. section 1400-1(b)B. The maximum face amount of Bonds which may be designated by an Issuer shall not exceed the amount of the recovery zone economic development Bond limitation awarded to such Issuer under 26 U.S.C. section 1400U-1.
- (h) The proposed use of Bond proceeds must meet the following requirements per 26 U.S.C. section 1400U-2(b)(1):
 - (1) One-hundred (100%) percent of the available Project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities;
 - (2) Capital expenditures paid with respect to property located within the zone;
 - (3) Expenditures for public infrastructure and construction of public facilities.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 869.82(a)(11)(B) and 8869.84(c), Government Code.

Section 5492. Minimum Application Requirements. Applications for the RZEDB Reallocation Pool are exempted from the performance deposit requirement pursuant to section 5033(b)(1) and are subject to the following additional requirements:

- (a) Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in article 4 of this chapter.
- (b) An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their direct Recovery Zone Bond allocation has been assigned to the Project seeking reallocation. The letter should include the amount and type of Bonds committed, the name of the Project and the name of the department awarding the direct allocation.
- (c) A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the Project. This requirement will only be required when the Issuer is an entity other than a municipality, such as a county or a conduit Issuer.
- (d) A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZEDB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.
- (e) The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the county or municipality.
- (f) A request for an award that is Project specific.
- (g) An estimate of the job impact that the proposed Project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs that will be created by funding of the proposed Project.

These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed Project.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), and 8869.85(b), Government Code.

Section 5493. Reallocation Priority System. Upon a determination that an Application has met the requirements set forth in sections 5491 and 5492 above, the following criteria will be used to evaluate, rank and award Allocations from the RZEDB Reallocation Pool:

(a) Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation Application process. As the Committee's first priority (Tier 1 Projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no Application will be required):

(1) A letter requesting the amount of allocation and a description of the proposed Project.

(2) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or inducement resolution.

(3) A letter of support or approval from the appropriate governing body or elected official's with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality, such as a county or a conduit issuer.

(4) A Recovery Zone Designation. The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone, and shall include the basis for the designation per U.S.C. 26 section 1400-1U(b). This requirement is demonstrated by a resolution approved by the local government requesting an award of Recovery Zone Economic Development Bond allocation.

(5) The Qualified Recovery Zone Bond Issuer must provide a legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.

(6) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for at least the amount of Bonds requested.

(b) Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 Projects) in the reallocation Application process. *The following counties will have second priority:* Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities will have second priority:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.

(c) Tier 3 Projects. All other Projects requesting Recovery Zone Economic Development Bonds shall be funded as Tier 3 Projects. Those agencies that fall into the Tier 1 category but request an award of reallocation beyond their waived amount will also fall into this category for their supplemental reallocation request. A complete Application will be required for the supplemental reallocation request.

(d) Projects that fall into the Tier 1 category will be funded prior to all other Projects. Those Projects that fall into the Tier 2 category will be funded based on relative score of the Project's public benefits and prior to the funding of Tier 3 Projects. All Projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If there is an insufficient amount of Recovery Zone Economic Development Bond that have been Deemed Waived to fund all Allocation requests, CDLAC will establish a waiting list for all unfunded Projects that meet the minimum Application requirements. These Projects will be funded as Allocation is received by CDLAC.

(e) Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to article 3 of this chapter, the Committee will divide the reallocation request by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested reallocation per job(s) created.

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

Section 5494. Undersubscribed Allocation. If the initial Recovery Zone Economic Development Bonds Allocation Round is undersubscribed, CDLAC will accept Recovery Zone Economic Development Bond Applications for the next scheduled Committee Allocation meeting, allowing for a minimum of thirty (30) days to review the Application.

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

Article 3. Specific Evaluation Criteria

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

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

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

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

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

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

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

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

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

(A) Evidence that the Project is located in a Special Designation Area.

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

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

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

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

(b) Job Creation (15 points maximum).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Vacant or abandoned buildings; or

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

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

system management plan evidenced by a scaled-for distance map showing the location of the Project is within a one-quarter (1/4) mile radius of the planned Public Transportation Corridor.

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

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

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

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

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

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

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

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

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

Article 4. Reporting Requirements

Section 5510. Reports and Timeframes. (a) CDLAC will require a Report of Action Taken be submitted upon the issuance of Bonds not more than three (3) business days following the issuance of RZEDBs. This report shall include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.

(b) Counties and large municipalities receiving designated RZEDB allocations must provide CDLAC with a Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.

(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010.

(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.

(2) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality such as a county or a conduit Issuer.

(3) A written memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.

(4) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will automatically be Deemed Waived.

(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15th deadline may have their allocation Deemed Waived.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), 8869.86(c), and 8869.87, Government Code.

Chapter 10. Recovery Zone Facility Bond (RZFB) Program

Article 1. The American Recovery and Reinvestment Act of 2009 (ARRA)

Section 5520. U.S. Treasury Designated Recovery Zone Bond Allocations. The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities have been excluded:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

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

Article 2. Application Process for the Recovery Zone Facility Bond Reallocation Pool

Section 5530. Application Process. Allocations for the RZFB Reallocation Pool shall be considered pursuant section to article 4 of chapter 1 and the submission of a complete RZFB Application.

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

Section 5531. Minimum Threshold. Requirements in Addition to the Minimum Application Requirements in Section 5033, Applications for the Recovery Zone Facility Reallocation Pool will be subject to the following criteria:

- (a) The maximum face amount of Bonds which may be re-allocated to a Qualified Recovery Zone Bond Issuer shall not exceed twenty million dollars (\$20,000,000) per Project.
- (b) In the event an Allocation Round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum reallocation limit.
- (c) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.
- (d) The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of reallocation not to exceed ten (10%) percent of the original reallocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of Allocation and Project need.
- (e) The Committee may grant an extension of the expiration date of the reallocation of up to thirty (30) calendar days but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.
- (f) The Qualified Recovery Zone Bond Issuer is required to estimate the job impact that the proposed Project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs

that will be created by funding the Qualified Business Project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed Project.

(g) A county or large municipality that is only requesting all or a portion of reallocation that was voluntarily waived need only provide a written request and documentation that the Project is ready to issue the Recovery Zone Facility Bonds prior to the expiration date of December 31, 2010.

(h) Counties and large municipalities assigned a Recovery Zone Facility Bond allocation must designate the area that Bonds will be utilized in, as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(b).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 869.82(a)(11)(B) and 8869.84(c), Government Code.

Section 5532. Minimum Application Requirements. Applications for the RZFB Reallocation Pool are required to submit the minimum requirements as provided in section 5033(b) in addition to the following requirements:

(a) Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in article 4 of this chapter.

(b) An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their Recovery Zone Bond allocation has been assigned to the Project seeking supplemental reallocation. The letter should include the amount and type of Bonds committed, the name of the Project, and the name of the department awarding Allocation.

(c) A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the Project. This requirement will only be required when the Issuer is an entity other than a municipality, such as the county or a conduit issuer.

(d) A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZFB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.

(e) The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(B). This requirement is demonstrated by a resolution approved by the county or municipality.

(f) A request for an award that is Project specific.

(g) Adopted TEFRA Resolution.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), and 8869.85(b), Government Code.

Section 5533. Reallocation Priority System. Upon a determination that an Application has met the requirements set forth in section 5531 and 5532 above, the following criteria will be used to evaluate, rank and award Allocations from the RZFB Reallocation Pool.

(a) Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation Application process. As the committee's first priority (Tier 1 Projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no Application will be required):

(1) A letter requesting the amount of allocation and a description of the proposed Project.

(2) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.

- (3) A letter of support or approval of the Project from the municipality's appropriate governing body or bodies or elected official. This requirement will only be required when the Issuer is an entity other than the municipality, such as the county or a conduit Issuer.
- (4) A Recovery Zone designation. The county or large municipality must designate the area that Bonds will be utilized in, as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the applicable county or large municipality.
- (5) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.
- (6) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for at least the amount of Bonds requested.
- (b) Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 Projects) in the reallocation Application process. *The following counties will have second priority:* Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities will have second priority:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.
- (c) Tier 3 Projects. All other Projects requesting Recovery Zone Facility Bonds are funded as Tier 3 Projects. Those agencies that fall into the Tier 1 category but request an award of reallocation beyond their waived amount will also fall into this category for their supplemental reallocation request. A complete Application will be required for the supplemental reallocation request.
- (d) Projects that fall into the Tier 1 category will be funded prior to all other Projects. Those Projects that fall into the Tier 2 category will be funded based on relative score of the Project's public benefits and prior to the funding of Tier 3 Projects. All Projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If there is an insufficient amount of Recovery Zone Facility Bonds Deemed Waived to fund all Allocation requests, CDLAC will establish a waiting list for all unfunded Projects that meet the minimum Application requirements. These Projects will be funded as Allocation is received by CDLAC.
- (e) Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to article 3 of this chapter the Committee will divide the reallocation request by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested reallocation per job(s) created.

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

Section 5534. Undersubscribed Allocation. If the initial RZFB Allocation Round is undersubscribed, CDLAC will accept Applications for the next scheduled committee Allocation meeting, allowing for a minimum of thirty (30) days to review the RZFB Application.

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

Article 3. Specific Evaluation Criteria.

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

- (a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:
- (1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Facility Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:
- (A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.
- (B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.
- (2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located, will be averaged, divided by the statewide poverty rate and multiplied by one-hundred (100). The following points will be awarded accordingly:
- (A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.
- (B) Three (3) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.
- (3) Special Designation Area (5 points maximum). Excluding the Recovery Zone Area designation, points will be awarded provided the following is demonstrated:
- (A) Evidence that the Project is located in a Special Designation Area.
- (B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.
- (4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)
- (5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.
- (b) Job Creation (25 points maximum).
- (1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation requested in the Application will be divided by the amount of Job Created proposed by the Recovery Zone Facility Bond Project and verified by the appropriate city or county official. Points will be awarded as follows:
- (A) Twenty-five (25) points to Projects creating one (1) job per \$35,000 or less of Allocation.
- (B) Fifteen (15) points to Projects creating one (1) job per \$35,001 to \$50,000 of Allocation.
- (C) Five (5) points to Projects creating one (1) job per \$50,001 to \$75,000 of Allocation.
- (c) Welfare-to-Work Plan (5 points maximum). Points will be awarded where the Qualified Business proposes or is participating in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.
- (d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent

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

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

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

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

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

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

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

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

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

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

(A) Vacant or abandoned buildings; or

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

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

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

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

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

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

(1) Ten (10) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt greater than twenty percent (20%) of total Project costs.

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

(3) Three (3) point for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt of up to ten percent (10%) of total Project costs.

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

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

Article 4. Reporting Requirements

Section 5550. Reports and Timeframes. (a) CDLAC will require a Report of Action Taken be submitted upon the issuance of Bonds not more than three (3) business days following the issuance of RZFBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.

(b) Counties and large municipalities receiving designated RZFB allocations must provide CDLAC with a Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.

(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010.

(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010.

(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.

(2) A resolution adopted by the governing body of the jurisdiction in which the proposed Project will be located, documenting the public approval process as required by 26 U.S.C. section 147(f) (TEFRA).

(3) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality such as a county or a conduit Issuer.

(4) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.

(5) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for the Bonds being utilized. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will automatically be Deemed Waived.

(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15th deadline may have their allocation Deemed Waived.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), 8869.86(c), and 8869.87, Government Code.

Chapter 11. Qualified Energy Conservation Bond Program

Article 1. Definitions

Section 5560. 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 in this chapter are defined as follows:

“Carbon Footprint” means for the purposes of the Qualified Energy Conservation Bond Program, the measure of Greenhouse Gas Emissions.

“Demonstration Project” means a Project that satisfies the requirements of 26 U.S.C. section 54D(f)(a)(C).

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

“Energy Efficient Publicly Owned Buildings” means a publicly owned building that has incurred capital expenditures for the purpose of reducing energy consumption by at least twenty (20) percent pursuant to 26 U.S.C. section 54D(f)(1)(A)(i).

“Green Community Program” means a program that meets the following two requirements: (1) a program that promotes one more of the purposes of energy conservation, one or more of the purposes of energy conservation, energy efficiency, or environmental conservation initiatives relating to energy consumption, broadly construed. Eligible program purposes include, among others, promotion of energy savings through retrofitting initiatives for heating, cooling, lighting, water-saving, storm-water reducing, or other efficiency measures; distributed generation initiatives; or transportation initiatives that conserve energy and/or support alternative fuel infrastructure (which may include, for example, improvements to public bicycle paths or mass transit systems) (2) A green community program must: (i) involve property that is available for general public use (using standards similar to standards for distinguishing general public use from private business use under § 1.141-3(c)); or (ii) involve a loan (or other repayment mechanism) or grant program that is broadly available to members of the general public, including individuals or businesses. A green community program need not affect the entire geographical area or all the residents and businesses within the jurisdiction of the State or local governmental unit that implements the program, provided that the program broadly benefits the general public, residents, or businesses in the affected area of the State or local governmental unit. Examples of programs that are available for general public use include programs to make improvements to public infrastructure that enhances proximity and connectivity between community assets and public transit in order to reduce motor vehicle use and promote energy conservation. An example of a loan or grant program that is broadly available to the general public would be a program for residential housing or private building energy efficiency initiatives that provides grants or loans that are broadly available for homeowners or businesses.

“Large Local Government” means for the purposes of the Qualified Energy Conservation Bond Program, a county or municipality with a population of 100,000 or more as defined in section 54D(e)(2)(C) of the Internal Revenue Code, or an Indian tribal government as defined in section 54D(h) of the Internal Revenue Code.

“Mass Commuting Facility and/or Related Facility” means a facility satisfying the requirements of 26 U.S.C. section 54D(f)(1)(C) that reduce the consumption of energy to reduce pollution from vehicles used for mass commuting.

“Public Education Campaign” means a campaign to promote energy efficiency pursuant to 26 U.S.C. section 54D(f)(1)(E).

“QECB Application” means the Application titled “Application for American Recovery and Reinvestment Act (ARRA) Qualified Energy Conservation Bonds (QECB)” (revised 1-11-11), which is hereby incorporated by reference.

“Qualified Conservation Purposes” means for the purposes of the Qualified Energy Conservation Bond Program, means conservation purposes that are permitted pursuant to 26 U.S.C. section 54D(f).

“Qualified Energy Conservation Bond Governmental Minimum Usage” means any Qualified Energy Conservation Bond allocation to the state shall be allocated in turn by the state to Issuers within the state in a manner that results in the use of not less than seventy (70%) percent of the allocation to such Issuers to designate Bonds that are not private activity Bonds as stated in section 54D(e)(3) of the Internal Revenue Code.

“Qualified Energy Conservation Bond Private Activity Maximum Usage” means that no more than 30 percent of the Qualified Energy Bond allocation to the state that is allocated to Issuers within the state may be used to issue private activity Bonds.

“Qualified Facility Project” means a facility satisfying the requirements of 26 U.S.C. section 45(d) without regards to paragraphs (8) and (10) thereof and without regard to any placed in service date.

“Rural Development Electricity from Renewable Resources” means rural development involving the production of electricity from Renewable Energy resources pursuant to 26 U.S.C. section 54D(f)(1)(A)(3).

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

Article 2. Eligibility Requirements

Section 5570. Application Process. Allocations for the Qualified Energy Conservation Bond Reallocation Pool shall be considered pursuant to article 4 of chapter 1 and the submission of a complete QECB Application.

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

Section 5571. Minimum Requirements. Applications for the Qualified Energy Conservation Bond Reallocation Pool will be subject to the following criteria:

- (a) The Applicant must be an Eligible QECB Reallocation Applicant as defined in section 5000 chapter 1.
- (b) The Issuer must be an Eligible QECB Reallocation Issuer as defined in section 5000 in chapter 1.
- (c) The Project Sponsor and/or Eligible QECB Reallocation Applicant must provide a description of the proposed use of the Bond proceeds with a description of the Project.
- (d) The Issuer must describe the financing plan, including whether the Bonds will be issued as a public offering or a private placement.
- (e) One hundred (100%) percent of proceeds are to be used for a “qualified conservation purpose” pursuant to 26 U.S.C. section 54(D)(f).
- (f) The Applicant must provide the following readiness information as applicable:
 - (1) Estimated date of issuance;
 - (2) The estimated beginning date and ending date of Project construction;
 - (3) The estimated funding of grants for research and research facilities;
 - (4) The estimated beginning of public education campaigns;
 - (5) The estimated implementation of demonstration Projects;
 - (6) The estimated date that site control will be established.
- (g) Applications where the Applicant represents a Project Sponsor shall include evidence that all required public entitlements have been acquired.

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

Section 5572. Reallocation of Waived Allocation. (a) Designated Allocation waived by a county or municipality, or Deemed Waived, shall be re-allocated by CDLAC to individual qualifying Projects on a competitive basis. As the Committee’s first priority, Large Local Governments that waived their Designated Allocation may request up to their waived amount by providing the following documentation (a formal Application will not be required):

- (1) A letter requesting the amount of allocation and a description of the proposed Project

- (2) A resolution that the Issuer has approved the Project, which may take the form of a reimbursement resolution or an inducement resolution;
- (3) For Qualified Private Activity Bonds, documentation of the appropriate governing body's elected official's approval of the Project;
- (4) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project or program qualifies for Qualified Energy Conservation Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo;
- (5) A commitment letter satisfying the requirements as provided in article 6 of chapter 1.
- (b) Large Local Government Applicants seeking an Allocation amount above their initial Allocation award or any other non-priority Eligible QECB Reallocation Applicant will have their Applications scored pursuant to section 5580. All estimates of Project performance as it relates to points must be supported by documentation from a qualified third party or a qualified "in-house" professional. In addition, individual Applications may only apply to one pool.

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

Section 5573. Review of New Technologies. The Committee will perform a formal policy review of Projects other than those submitted by the California Pollution Control Finance Authority that involve technologies unfamiliar to the Committee and/or for industries that have not previously requested an award of Allocation. The Committee may request assistance of other federal, state, and local agencies when conducting this review. The Applicant or Project Sponsor may be asked to provide additional information relevant to the Committee's review. The review process shall result in a written policy concerning the advisability of awarding Allocation based on but not limited to the Project's public benefit, financial feasibility and environmental impact.

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

Article 3. Evaluation Criteria

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

(a) Capital Expenditures Pool

(1) Qualified Facilities (Private Activity Use and Governmental Use) (10 point maximum). Qualified Facility Projects must be in compliance with the renewable portfolio standard eligibility requirements of the California Energy Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) Elective: Two (2) additional points will be awarded to a rural Project that delivers electricity to a population of 10,000 (or more) that are not on the electricity grid at the time of Application.

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

(4) Energy Efficient Publicly Owned Buildings (Governmental Use Only) (10 point maximum). One (1) point will be awarded to Projects for every percentage point beyond the minimum required (20%) that energy consumption is reduced in a publicly owned building. This information must be certified by a licensed mechanical engineer or architect.

(b) Energy Program Pool.

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

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

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

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

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

(2) Demonstration Projects (10 point maximum).

The criteria used to evaluate the approach of the Demonstration Project will include, but will not be limited to the following: the size, experience and capacity of the demonstration client base, the verification of the practicality and marketability of the demonstrated technology by a third party, and the overall degree of environmental benefit of the demonstrated technology. Overall degree of environmental benefit of the technology will be measured by reductions in energy consumption measured in kWh saved and/or the amount of greenhouse gas emissions measured in MMTCO₂e (million metric tons of CO₂ equivalent). Applicants will be required to document their previous success with the introduction, marketing and production of a new technology.

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

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

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

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

(3) Public Education Campaign (10 point maximum)

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

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

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

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

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

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

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

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

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

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

Article 4. Reporting Requirements

Section 5590. Reports and Timeframes. (a) CDLAC will require the completion of a Report of Action Taken for RZBs or QECBs be submitted no more than three (3) business days following the issuance of QECBs.

(b) Large Local Governments receiving Designated Allocation must provide CDLAC with a Plan of Issuance. Large Local Governments that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.

(c) Large Local Governments that have not issued their entire Designated Allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010.

(1) A resolution of the Issuer approving the Project, which may take the form of a reimbursement resolution and/or inducement resolution.

(2) Documentation of the appropriate governing body's or bodies or elected officials' approval of the Project.

(3) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project or program qualifies for Qualified Energy Conservation Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant tax code in their memo.

- (4) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will automatically be Deemed Waived.
- (d) Large Local Governments that have submitted a Plan of Issuance but have not provided the above documentation will be deemed to have automatically waived allocation.
- (e) Federal tax law mandates that one-hundred percent (100%) or more of the available Project proceeds be spent for one or more qualified purposes within the three (3) year period beginning on such date of issuance. Hence, CDLAC will require Applicants to provide ongoing documentation evidencing their initial usage of Bond proceeds as detailed in the QECB Reallocation Application.

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

Chapter 12. Beginning Farmer Program

Article 1. Definitions

Section 5600. 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:

“Agricultural Improvements” means any improvements, buildings, structures or fixtures suitable for use in farming that are located on Agricultural Land. “Agricultural Improvements” do not include personal residences.

“Agricultural Land” means land located in the State of California that is:

- suitable for use in farming and that is or will be operated as a farm, as such term is defined by IRC § 147(c)(2)(D); and
- that will be acquired by a Beginning Farmer.

“Beginning Farmer” means an individual as defined by IRC § 147(c)(2)(C).

“Beginning Farmer Bond Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Beginning Farmer Bond Program” (5-12-14), which is hereby incorporated by reference.

“Beginning Farmer Bonds” means conduit revenue bonds issued as authorized by the State of California that meet the requirements of Internal Revenue Code §§ 144(a) and 147(c)-(g).

“Borrower” means a Beginning Farmer who has received Beginning Farmer Bond financing under the Program.

“Depreciable Agricultural Property” means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the IRC, including but not limited to farm machinery and breeder livestock, but not including feeder livestock, seed, feed, fertilizer and other types of inventory or supplies.

“Federal Maximum” means the maximum amount of a loan that federal law allows to be financed under the Program. This amount may be adjusted for inflation in future calendar years as provided for in IRC § 147(c)(2)(H).

“Financed Property” means property which is financed through the Beginning Farmer Program.

“Related Person” means a person or entity other than the Borrower as defined by IRC §§ 144(a)(3) and 147(a)(2).

“Substantial Farmland” means any parcel of land as defined by IRC § 147(c)(2)(E).

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

Article 2. Evaluation Criteria

Section 5610. Minimum Requirements.

(a) The Beginning Farmer Program proposed by the Applicant must be for the purpose of providing loans to beginning farmers. The beginning farmer must:

- (1) Be a California resident;
- (2) Be at least 18 years of age;
- (3) Be a “First Time Farmer” as defined by IRC § 147(c)(2)(C);
- (4) Be the principal operator of the farm;
- (5) Use loan proceeds to purchase land within California or eligible breeder livestock, equipment/machinery and/or new construction or renovations for use in farming operations solely within California;
- (6) Only use the agricultural land, agricultural improvements and depreciable agricultural property for farming by the beginning farmer, his/her spouse, his/her minor children, or any combination thereof;
- (7) Not use loan proceeds to procure seed, feed, feeder stock, fertilizer, personal residence (in excess of the IRC exceptions) or as otherwise prohibited and/or limited by the IRC; and
- (8) Not exceed the lifetime aggregate amount of all loans for any borrower permitted by the IRC.

(b) The Issuer must certify that each participating lender will:

- (1) Ensure that all of the proceeds of the Bond be used for the acquisition of farmland, construction or reconstruction of improvements or equipping of farmland, or the purchase of property of a character subject to the allowance for depreciation under IRC § 167 or other authorized costs.
- (2) Verify the accuracy of all certifications of each Beginning Farmer and all other information with respect to the Project or Beginning Farmer set forth in an Application.
- (3) Ensure that none of the proceeds of the Bond will be used to provide working capital or the financing of inventory, supplies or other ineligible operating expenses.
- (4) Prior to the approval of the issuance of the bond, not finance or otherwise advance moneys to the Beginning Farmer or any Related Person in connection with the Project which the Beginning Farmer expects to finance with proceeds of the Bond in any manner inconsistent with applicable prohibitions and/or limitations set forth in the IRC.

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

Section 5620. Scoring Criteria. Upon a determination that an Application meets the minimum requirements pursuant to Section 5610, Applications will be scored based on the following criteria:

(a) Past Program Performance. For each allocation round, programs will be evaluated based on the percentage of the previous year’s allocation used by each applicant in comparison to the percentage of the previous year’s allocation used by the other applicants in the allocation round.

(b) Actual Versus Proposed Average Interest Rate and Loan Amount. For each allocation round, programs will be evaluated and ranked based on each applicant’s deviation between the currently proposed and previous year’s actual average interest rates, as well as the currently proposed and previous year’s actual average loan amount, in comparison to the allocation round’s other applicants’ proposed and previous year’s actual average interest rates and currently proposed and previous year’s actual average loan amount.

(c) Additional Points. In a competitive application round, additional points will be awarded to Applicants that commit to the goal of providing allocation to Beginning Farmers that provide the following public benefits:

(1) Job Creation. A maximum of 20 points will be awarded to programs that use a substantial portion of allocation for programs that will add jobs to local economy (one point per job with a maximum of 20 points).

Points will be awarded in the following manner:

(A) one (1) point will be awarded for each full time job;

(B) part time jobs will receive a tenth of a point, rounded to the nearest tenth of a point, based on the job's full time equivalency.

(2) Borrower Preparation. A maximum of 15 points will be awarded to programs that provide a technical assistance component for the following areas:

(A) Five (5) points will be awarded to Applicants that make available financial management education and/or training;

(B) Five (5) points will be awarded to Applicants that make available land management education and/or training; and/or

(C) Five (5) points will be awarded to Applicants that make available resource conservation education and/or training.

(D) Evidence of the aforementioned technical assistance program(s) shall be submitted with the application and shall include, but is not limited to, third-party contracts or agreements for the provision of training, training schedules, program curricula and narratives describing the training programs and written assurance of the education/training provider that beginning farmers will be eligible for the education/training for a minimum period of twenty-four (24) months after the beginning farmer's financing is approved by the Applicant.

(3) Farm to Fork. Nine (9) points will be awarded to Applicants that use a substantial portion of allocation for programs that establish or enhance farming operations producing edible agricultural commodities for sale and consumption within 200 miles of the farming operations financed by proceeds from a beginning farmer bond.

Evidence of the program shall be submitted with the application and shall include, but is not limited to, a description of the program identifying how the program will operate, proposed buyers and sales contracts.

(4) Family Farms. Three (3) points will be awarded to Applicants that use a substantial portion of allocation for programs to acquire family farms by beginning farmers (land, breeding livestock and/or equipment/machinery).

(5) Under-Represented Borrowers. Three (3) points will be awarded to Applicants that use a substantial portion of allocation for programs designed to facilitate acquisition of farmland, breeding livestock equipment and/or equipment/machinery by veterans, women and/or under-represented populations.

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

Section 5630. Allocation Distribution. The Committee will determine the amount allocated to each Applicant based upon the evaluation criteria set forth in section 5620, the number of Applicants applying in the Allocation Round, the amount requested by each Applicant and the amount of allocation available in the Beginning Farmer Program Pool. In a competitive Application year, the maximum requested amount of Allocation per Application shall not exceed twenty million dollars (\$20,000,000). The Committee may waive this cap on a case-by-case basis in its sole and absolute discretion.

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

Article 3. Reporting Requirements

Section 5640. Specific Reports. Applicants receiving an allocation shall comply with the reporting requirements contained in Article 11 of Chapter 1.

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

FORMS

New and Revised

**CERTIFICATE of COMPLETION for QUALIFIED RESIDENTIAL RENTAL
PROJECTS**

1) Project Name:

(If project name has changed since the award of allocation please note the original project name as well as the new project name.)

2) CDLAC Application No.:

3) Name of Bond Issuer:

4) Name of Borrower:

(If Borrower has changed name since the award please note the original Borrower as well as the new Borrower.)

5) The undersigned hereby certifies that all work on the Project was substantially completed as of _____, 20__

The undersigned hereby further certifies that:

(a) the aggregate amount disbursed on the Loan to date is \$_____

(b) all amounts disbursed from proceeds of the Bonds have been applied to pay or reimburse

the undersigned for the payment of Project Costs and none of the amounts disbursed from the proceeds of the Bonds have been applied to pay or reimburse any party for the payment of costs

or expenses other than Project Costs; and

(c) at least 95 percent of the amounts disbursed from the proceeds of the Bonds have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs (as that term is used in the Regulatory Agreement) and less than 25 percent of the amounts disbursed from the proceeds of the Bonds, exclusive of amounts applied to pay the costs of issuing the Bonds, have been applied to pay or reimburse the Borrower for the cost of acquiring land.

(d) the cost of the bond issuance was equal to or less than 2% of the bond proceeds issued.

6) The undersigned hereby certifies the project meets the general federal rule for a Qualified Project Period

Yes_____ No_____

(a) 10% of the dwelling units in the project financed in part from the proceeds of the captioned Bonds were first occupied on _____, 20__ and

(b) 50% of the dwelling units in the project financed in part from the proceeds of the captioned Bonds were first occupied on _____, 20__.

7) If no to 6) the undersigned hereby certifies the project meets the special federal rule for a Qualified Project Period.
Yes_____ No_____

(Project qualifies if it is an acquisition/rehabilitation where no more than 90% of the units were not available for occupancy within 60 days of the earlier of the project acquisition or the Bond Issuance Date.)

(a) Bonds were issued on _____, 20__

(b) Property was acquired on _____, 20__

(c) The date 10% of the units were available to occupy (within 60 days of the earlier of the acquisition or bond issuance) _____, 20__

Signature of
Officer

CERTIFICATE of COMPLETION for NON-QUALIFIED RESIDENTIAL RENTAL PROJECTS

Project Name:

(If project name has changed since the award of allocation please note the original project name as well as the new project name and request a change in the CDLAC resolution.)

CDLAC Application No.:

Name of Bond Issuer:

Name of Borrower:

(If Borrower has changed name since the award please note the original Borrower as well as the new Borrower and request a change in the CDLAC resolution.)

The undersigned hereby certifies that all work on the Project was substantially completed as of _____, 20__

The undersigned hereby further certifies that:

- (a) the aggregate amount disbursed on the Loan to date is \$_____
- (b) all amounts disbursed from proceeds of the Bonds have been applied to pay or reimburse the undersigned for the payment of Project Costs and none of the amounts disbursed from the proceeds of the Bonds have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs; and
- (c) at least 95 percent of the amounts disbursed from the proceeds of the Bonds have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs and less than 25 percent of the amounts disbursed from the proceeds of the Bonds, exclusive of amounts applied to pay the costs of issuing the Bonds, have been applied to pay or reimburse the Borrower for the cost of acquiring land.
- (d) the cost of the bond issuance was equal to or less than 2% of the bond proceeds issued.

Signature of Officer

CERTIFICATION OF COMPLIANCE II
ALL NON-QRRP PROJECTS

1. Project Name Change: Yes_____
No_____

(If project name has changed since the award of allocation please note the original project name as well as the new project name.)

If yes provide existing and new Project Name _____

2. CDLAC Application No.: #REF!

3. Bond Issuer Change: Yes_____
No_____

(If Bond Issuer has changed since the award as a result of refinance or refunding of an allocation please note the original Issuer as well as the new Issuer.

If yes provide the Name of the New Issuer _____

Contact Information:

4. Borrower Change Yes_____
No_____

(If Borrower has changed since the award affecting the CDLAC resolution please note the original Borrower as well as the new Borrower.)

If yes provide the Name of the New Borrower _____

Contact Information:

5. Has the project been completed and placed in service?

Yes_____
No_____

If yes please submit Completion Certification (one time only)

6. Have any of the following events occurred associated with the bond allocation including but not limited to: a change in use, a Bond Default, or a Qualified Bond Default.

If so, please describe and explain?

If yes please provide an explanation.
Yes_____
No_____

7. (IDB ONLY) If applicable in the CDLAC Exhibit A, provide the following job creation and retention details:

_____ Number of Existing Jobs Actually Retained

_____ Number of New Jobs Anticipated to be created

"Pursuant to Section 13 of Resolution No. (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on , I, _____, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with the terms and conditions set forth in the Resolution as outlined above. I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A, shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

Signature of Officer

**CERTIFICATION of COMPLIANCE II for QUALIFIED RESIDENTIAL RENTAL
PROJECTS**

1. Project Name Change: No _____ Yes _____

(If project name has changed since the award of allocation please note the original project name as well as the new project name.)

If yes provide old and new Project Name _____

2. CDLAC Application No.:

3. Bond Issuer Change: No _____ Yes _____

(If Bond Issuer has changed since the award as a result of refinance or refunding of an allocation please note the original Issuer as well as the new Issuer.)

If yes provide the Name of existing and New Issuer _____

Contact Information _____

4. Change in Borrower No _____ Yes _____

(If Borrower has changed since the award affecting the CDLAC resolution please note the original Borrower as well as the new Borrower.)

If yes provide the Name of the existing and New Borrower _____

Contact
Information _____

5. Change in Management Company No _____ Yes _____

If yes provide the Name of the New Management Company _____

6. Has the *Qualified Project Period* commenced? No _____ Yes _____

No _____ Yes _____ Already Submitted Certification _____

If yes please submit the Certificate of Qualified Project Period (one time only)

7. Has the project been completed and placed in service?

No _____ Yes _____ Already Submitted Certification _____

If yes please submit Completion Certification (one time only)

8. Have any of the following events occurred associated with the bond allocation including but not limited to: defaults associated with rents and income requirements, Bond Default or a Qualified Bond Default..

No _____ Yes _____

If so, please describe and explain?

9. Has a termination of the Regulatory Agreement occurred or is a termination planned in the next year? Has proper noticing occurred?

No_____ Yes_____

If so, please describe and explain?

	Federally Bond Restricted Units (Reflected in PSR)	Other Restrictions (reflected in PSR)	Total (Reported in CDLAC Resolution)
10. _____ at 50% AMI	_____	_____ at 50% AMI	_____ at 50% AMI
_____ at 60% AMI	_____	_____ at 60% AMI	_____ at 60% AMI
Total _____	Total _____	Total _____	Total _____

Please attached a copy of the project's TCAC Project Status Report (PSR) or equivalent documentation.

11. Please indicate the distribution of the CDLAC restricted 10% of the 50% AMI units

Bedroom Type	# of Units in PSR	# of Units in CDLAC Resolution
1 bedroom	_____	_____
2 bedroom	_____	_____
3 bedroom	_____	_____

12. If the Project has committed to and is currently providing the service amenities for a term as specified in the CDLAC resolution, please verify the services are being provided: on a regular and ongoing basis, which are provided free of charge and all hour requirements are being met:

____After-school Programs
 ____Educational , health and wellness, or skill building classes
 ____Health and Wellness services and programs (not group classes)
 ____Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)
 ____Bona-Fide Service Coordinator/ Social Worker

Is the service being offered on an ongoing basis and provided free of charge (childcare excepted)?

No_____ Yes_____ If no please
explain.

Are all hour requirements being met?

No_____ Yes_____ If no please
explain.

Attach evidence demonstrating that the above listed services are being provided and have met the requirements in the CDLAC Resolution. Including but not limited to MOUs and or contracts associated with the services rendered, a 12-month schedule (current reporting year) of the services offered, flyers, sign-up sheets, etc.

"Pursuant to Section 13 of Resolution No. _____ (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on _____, I, _____, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with the terms and conditions set forth in the Resolution as outlined above. I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A, shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

Signature of
Officer

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE (CDLAC)

NON-COMPETITIVE

APPLICATION FOR AN ALLOCATION OF THE STATE CEILING ON QUALIFIED PRIVATE ACTIVITY BONDS FOR A QUALIFIED RESIDENTIAL RENTAL PROJECT (QRRP)

ISSUER (Applicant): _____

PROJECT SPONSOR: _____

PROJECT NAME: _____

PROPOSED MEETING DATE: _____

FHA Forward Commitment Request ☐ Yes ☐ No

Scattered Site ☐ Yes ☐ No

We, the undersigned, hereby make an Application to the California Debt Limit Allocation Committee ("CDLAC") for the purpose of providing rental housing as described herein.

We agree it is our responsibility to provide CDLAC with one original and one duplicate copy of a complete Application, accompanied by a check made payable to the Committee in the amount of **\$600** and a completed Performance Deposit Certification form. We understand that succinct answers providing the requested information are required. We understand that if additional space is required, each additional page will be clearly labeled. We agree that it is also our responsibility to provide all information that is deemed by CDLAC to be necessary to evaluate our Application. We understand that CDLAC may verify the information provided and analyze materials submitted as well as conduct its own investigation to evaluate the Application. We recognize that we have a duty to inform CDLAC when any information in the Application or supplemental materials is no longer true and to supply CDLAC with accurate information.

We represent that we have read all Government Code sections relevant to the CDLAC Regulations Implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds ("Regulations"). We acknowledge that CDLAC recommends that we seek advice from bond counsel.

We acknowledge that all materials and requirements are subject to change by enactment of federal or state legislation.

In carrying out the development and operation of the proposed project, we agree to comply with all applicable federal and state laws regarding unlawful discrimination and will abide by all CDLAC program requirements.

We acknowledge that our Application will be evaluated based on federal and state statutes and regulations pertaining to Qualified Private Activity Bonds for Qualified Residential Rental Projects and the CDLAC Regulations, which identify the minimum requirements, evaluation criteria, priorities, and other standards that will be employed to evaluate Applications.

We acknowledge that the information submitted to CDLAC in this Application or supplemental thereto may be subject to the Public Records Act or other disclosure. We understand that CDLAC may make such information public after a final decision by CDLAC has been made on the Application. CDLAC will maintain as confidential, certain financial information, but cannot guarantee confidentiality.

The Project Sponsor declares under penalty of perjury that the information contained in the Application, exhibits, attachments, and any further or supplemental documentation is true and correct to the best of its knowledge and belief. The Applicant declares that the information contained in PARTS I and II of the Application is true and correct to the best of its knowledge and belief, and as to information contained in the Application, exhibits, attachments, and further or

supplemental documentation provided by the Project Sponsor, the Applicant is not aware of any information that would cause the Applicant to believe that the Application contains any untrue information or omits to state any material information. We understand that misrepresentation may result in the cancellation of an Allocation, and other actions which CDLAC is authorized to take.

The Project Sponsor certifies that the project can be completed within the development budget and the development timetable set forth in our Application. The Project Sponsor further certifies that the proposed project can be operated in the manner proposed within the operating budget set forth in the Application.

The Applicant certifies that it is in compliance with all applicable statutes, laws, rules, and regulations necessary for the transaction of its business.

We agree to hold CDLAC, its members, officers, agents, and employees harmless from any matters arising out of or related to the awarded Allocation.

We acknowledge that all Application materials are to be delivered to the address below, **by 4:00 p.m.** on the appropriate date:

The California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814

Signature of Applicant's Senior Official

Signature of Project Sponsor Officer

Print Name

Print Name

Title

Title

Date _____

Date _____

Additional information may be obtained by accessing the Committee's web site at <http://www.treasurer.ca.gov/cdlac/> or by calling the Committee at (916) 653-3255.

The California Debt Limit Allocation Committee complies with the Americans With Disabilities Act (ADA). If you need additional information or assistance, please contact the Committee at 916/653-3255 or TDD 916/654-9922

PART I – FINANCING TEAM INFORMATION

1. Name of Applicant (Entity Issuing Bonds):

Mailing Address:

City, State, Zip Code:

Federal Identification No.:

For mailing of official documents:

Name of Applicant's Senior Official:

Title of Senior Official:

Telephone #: ()

Fax #: ()

E-mail:

For questions concerning application:

Name of Applicant's Staff Contact Person:

Title of Contact Person:

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

For questions concerning compliance:

Name of Applicant's Staff Contact Person:

Title of Contact Person:

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

2. Name of Bond Counsel Firm:

Name of Attorney:

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

3. Name of Bond Underwriter Firm:

Name of Agent::

Mailing address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

4. Name of Financial Advisor Firm:

Name of Agent::

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

5. Name of Private Placement Agent Firm (if applicable):

Name of Agent::

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

6. Name of Private Placement Purchaser #1 (if applicable):

Name of Agent::

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

Name of Private Placement Purchaser #2 (if applicable):

Name of Agent::

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

7. Name of Credit Enhancement Provider (if applicable):

Name of Agent::

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

8. Name of Project Sponsor (Borrower entity):

Name of Senior Officer:

Title of Senior Officer:

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

Name of Contact Person (if different from Senior Officer):

Title of Contact Person:

Telephone #: ()

Fax #: ()

E-mail:

9. Name of Developer Firm:

Name of Senior Officer:

Title of Senior Officer:

Mailing Address:

City, State, Zip Code:

Telephone #: ()

Fax #: ()

E-mail:

Name of Contact Person (if different from Senior Officer):

Title of Contact Person:

Telephone #: ()

Fax #: ()

E-mail:

PART II – ALLOCATION/BOND ISSUE/PROJECT FINANCING INFORMATION

ALLOCATION INFORMATION

1. Amount of tax-exempt bond allocation requested: \$
2. Date of project inducement:
Submit a copy of the adopted inducement resolution labeled as **Attachment A**. Applications submitted without this documentation will be deemed incomplete. (See Section 5033(b)(5) of the CDLAC Regulations)
3. Date of TEFRA approval:
Submit proof of TEFRA (public approval process required by 26 U.S.C. Section 147(f)) labeled as **Attachment B**. (See Section 5033(b)(65) of the CDLAC Regulations.)

For an open application process, see time lines posted on the Committee's web site.

<http://www.treasurer.ca.gov/cdlac/>

BOND ISSUE INFORMATION

1. Indicate anticipated bond issuance date:
2. Indicate whether bonds will be sold as ~~a public offering with credit enhancement~~:
 - a. a public offering with credit enhancement
 - b. a private placement; or
 - c. a cash collateralized public offering

~~3. Will the bonds carry a variable or fixed interest rate?~~

~~*If bonds carry a variable rate:*~~

~~Identify the index:~~

~~How frequently will the bonds be re-marketed and by whom?~~

3. If a fixed rate, what is the fixed interest rate?

If bonds carry a variable rate:

Identify the index:

Identify the variable rate at time of application:

Is there a feature to allow a conversion to a fixed rate at some time in the future? Under what conditions and when?

4. Anticipated bond rating: (See Sections 5063, 5064 or 5065 of the CDLAC Regulations):

	<u>Rating</u>	<u>Date Rating Anticipated</u>
Fitch		
Moody's		
Standard & Poor's		

If the anticipated bond rating is BBB or less or is unrated, does the Applicant favor an award requiring an Investment Representation Letter or with minimum denomination requirements?

5. Bond Sale Structure
(See Sections 5061 or 5062 of the CDLAC Regulations.)

Submit a brief description of the bond sale structure labeled as **Attachment D**. The description must include, at a minimum, the construction or interim financing, if applicable, the amount, closing deadlines, security/collateral provided, investors, guaranties, conditions for closing, anticipated closing date, etc. Also, submit proof of all firm commitment(s) from credit enhancement provider(s) and private placement bond purchaser(s), labeled sequentially as **Attachment D-1, D-2**, etc. For FHA financed projects not seeking a Forward Commitment, a HUD Acknowledgement Letter must be included with the Attachment D documents.

A. Indicate interim or construction period credit provider:

B. Indicate permanent financing credit provider:

C. Indicate whether the bond structure includes financing on a draw-down basis:

If a Draw-down Bond Issuance, provide the estimated draw-down schedule and amount of distributions:

6. Prior Bond Default or Bankruptcy
(See Section 5066 of the CDLAC Regulations.)

Project Sponsors and Bond Issuers may submit an appeal for a waiver of the Bond Sale Structure restrictions associated with a prior Bond Default or bankruptcy in Attachment D. “Not Applicable, or “N/A” is not an acceptable answer to 6.A and 6.B. If the answer is none, indicate “None”.

A. Indicate any prior Bond Defaults or bankruptcies on behalf of a Project Sponsor or Borrower within the last 3 years:

B. Indicate and y prior Bond Defaults in the last 5 years on behalf of the Bond Issuer/Applicant:

7. Redevelopment Agency Funding

Are there any direct or indirect committed public funds related to Redevelopment Agency resources in existence prior to the dissolution of Redevelopment Agencies on February 1, 2012?

☐ No

☐ Yes. Provide the below information:

RDA Assistant Approval Date:

Tax Increment Year:

Amount:

Cash-On-Hand (answer Yes or No):

On RDA Obligation List (answer Yes or No):

Department of Finance Date of Enforceable RDA Obligation List:

Successor Entity Committed Date:

Current Status of Project (Pending Oversight Boards Issues of DOF issues, etc.):

Has a final Letter of Determination or an approved Housing Asset Transfer List (if applicable) been obtained?

☐ Yes ☐ No

PROJECT FINANCING INFORMATION

1. Sources – Construction Financing

Submit an itemized breakdown of the complete sources of construction financing, including but not limited to the following items, labeled as **Attachment E-1**: Tax-Exempt Bond Proceeds, Taxable Debt Proceeds, Developer Equity, Low Income Housing Tax Credit Equity, Direct & Indirect Public Funds and Seller Carryback Note. **Please itemize all liens to be included in the proposed financing.**

2. Sources and Uses – Permanent Financing

Complete Attachment E-2 or complete and submit TCAC's Form in Section IV: Sources and Uses Budget: Part 1: Sources and Uses Budget or comparable documentation as Attachment E-2. **Please itemize all liens to be included in the proposed financing and provide a list of all liens to be paid off at closing as Attachment E-3.**

3. Use of 4% Low Income Housing Tax Credits

If applicable, please respond.

Date when application will be made to the California Tax Credit Allocation Committee (TCAC):	
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4. Leveraging Point Category

(See Section 5230(h) of the CDLAC Regulations.)

Projects will earn points for committed public funds and taxable debt financing that are part of the permanent financing of the proposed Project. Submit CDLAC form, **Attachment F**, that provides a breakdown of the amount and type of direct and indirect public funds and the amount and source of taxable debt. In order to receive points for the committed public funds, submit proof of the commitments from the applicable sources. In order to receive points for taxable debt financing that is in the form of conventional loans, list lenders in the space provided on **Attachment F** and submit proof of the commitments from the applicable sources. The commitments for public funds and taxable debt, other than taxable bonds, are to be labeled sequentially as **Attachment F-1, F-2**, etc., as needed.

5. Relocation

Applicants proposing the rehabilitation or demolition of occupied housing shall include the cost of any tenant relocation in **Attachment E-2** and provide a detailed description of the relocation plan, labeled as **Attachment G, G-1 or G-2**.

6. Estimated per unit cost (not including Manager's Units): \$

An application requesting allocation with total project costs that appear to be high for the geographic area in which the project is located will be requested to provide an explanation for why costs are high and demonstrate that such costs are justified. Submit the high cost explanation as Attachment G-1.
(See Section 5194 of the CDLAC Regulations.)

7. ~~Itemized Hard Construction Costs—Estimated total hard costs per unit: \$ ——— (Total hard costs per unit shall consist of New Construction/ Rehabilitation and On & Off Site costs shown in either sections 5 or 6 divided by the number of all units, excluding Manager's Units)~~
(See Section 5210(e) of the CDLAC Regulations.)

Submit an itemized breakdown of hard construction costs, labeled as **Attachment H or H-1**. Hard Construction/ Rehabilitation costs shall consist of structure costs only.

~~Projects involving the rehabilitation of existing buildings must complete a minimum of \$15,000 in hard construction costs per unit with the exception of at risk projects that do not receive an award of tax credit. Federally Assisted At Risk Projects that receive only an award of bond authority and do not receive low income housing tax credit must spend the minimum amount required by 26 U.S.C. Section 147(d)(2). Projects not meeting this minimum requirement will be deemed incomplete. Submit an itemized breakdown of hard construction costs, labeled as **Attachment H or H-1**.~~

8. Capital Needs Assessment

(See Section 5212 of the CDLAC Regulations.)

Projects involving the rehabilitation of existing buildings must submit a Capital Needs Assessment performed no more than 180-days prior to application deadline, labeled as **Attachment H-2**. The Capital Needs Assessment shall not apply if the project received an Allocation within the past five years and these requirements were met in the original application. Please indicate "Not Applicable" if a Capital Needs Assessment is not required.

9. Allocation per Restricted Rental Unit: \$

(See Section 5231(d) of the CDLAC Regulations.)

If two or more Applications receive the same total number of points, the Applications will be ranked according to the lowest amount of requested Allocation per Restricted Rental Unit.

10. Debt Service Coverage Ratio

Complete the following information relating to the Debt Service Coverage Ratio contained in the commitment for credit

enhancement or private placement purchase of bonds, using annualized pro-forma figures:

a. Potential Gross Income	\$
b. Less Vacancy Rate @ %*	-\$
c. Effective Gross Income (a minus b)	\$
d. Less Operating Expenses (include Operating & Replacement Reserves)	-\$
e. Net Operating Income (c minus d)	\$
f. Principal plus Interest (Debt Service)	\$
g. Debt Service Coverage (e divided by f)**	\$

*Use market area vacancy rate or appraised vacancy rate, but in no event use less than 5%. If less than 5% is being used, please provide a written explanation as to the reason below.

**Cannot be less than 1.15 ~~to 1~~ pursuant to Section 5193 of the CDLAC Regulations except for FHA/HUD projects, RHS projects or projects financed by the California Housing Finance Agency.

Submit CDLAC form, **Attachment I** that provides an itemized breakdown of the Operating Expenses.

11. Federal Bond Election

- ☐ 20% at 50% Area Median Income
☐ 40% at 60% Area Median Income

PART III – PROJECT INFORMATION/EVALUATION CRITERIA

1. Project Name:
2. Project Street Address:
City:
County:
Zip Code:

[The zip code must be included. If the project site does not yet have a street address, contact the local United States Post Office for an approximate zip code.]

3. Legislative Districts and Census Tract

a. Federal Congressional District in which the proposed Project is located:	
b. State Senate District in which the proposed Project is located:	
c. State Assembly District in which the proposed Project is located:	
d. Census Tract in which the proposed Project is located:	

4. Prior Tax-Exempt Allocation Award

	<u>YES</u>	<u>NO</u>
Has the proposed Project received a CDLAC allocation in the past?	<input type="checkbox"/>	<input type="checkbox"/>
Was the allocation used to issue the bonds for the project?	<input type="checkbox"/>	<input type="checkbox"/>
Have bond proceeds been used or drawn down?	<input type="checkbox"/>	<input type="checkbox"/>
If “YES”, submit a narrative explanation of the circumstances surrounding the prior allocation and why additional allocation is being requested. The narrative must include the amount of the previous allocation, the month and year it was awarded, the CDLAC resolution number, the status of the bonds, the balance of bond proceeds, and a justification for the additional allocation. The narrative must be labeled as Attachment J .		

5. Project Type and Characteristics

Submit a narrative description of the proposed Project, labeled as **Attachment K**. The description must contain, at a minimum, the following details: **1)** the number of acres of the site (include topography and special features), **2)** a description of the surrounding neighborhood, **3)** the targeted population for the project (i.e., large families, seniors, etc.), **4)** the expected start and completion date of construction/rehabilitation, **5)** physical features of the project (i.e., description of buildings, grounds, project amenities, etc.), **6)** unit configuration, **7)** unit amenities, **8)** scope of rehabilitation work, and **9)** if applicable, a description of other unique features of the project.

Respond by checking as many items as are applicable to the proposed Project.

Project Type and Characteristics	Check here
a. The proposed Project is a Preservation Project as described in Section 5230(b) of the CDLAC regulations. Supporting documentation must be labeled sequentially as Attachment L, L-1, L-2, etc. The Project has an existing HAP contract. Please attach existing contract as Attachment L, L-1, L-2, etc.	<input type="checkbox"/>
The proposed Project is a Federally Assisted At-Risk Project as defined in Section 5170 of the CDLAC Regulations.	<input type="checkbox"/>
The proposed Project is a Low Income Housing Tax Credit Resyndication Project.	<input type="checkbox"/>
b. The proposed Project is a Mixed Income Project as defined in Section 5000 of the CDLAC Regulations.	<input type="checkbox"/>
c. The proposed Project is a Rural Project as defined in Section 5000 of the CDLAC Regulations. DO NOT CHECK if item “<u>b</u>”, above, has been checked.	<input type="checkbox"/>
d. The proposed Project is an Acquisition & Rehabilitation Project.	<input type="checkbox"/>
e. The proposed Project is a New Construction Project or Adaptive Reuse as defined in Section 5170 of the CDLAC Regulations.	<input type="checkbox"/>
f. The proposed Project is a single room occupancy (SRO) rental project.	<input type="checkbox"/>
g. The proposed Project is a senior citizens rental project.	<input type="checkbox"/>
h. The proposed Project is an assisted living rental project.	<input type="checkbox"/>
i. The proposed Project is a special needs housing rental project.	<input type="checkbox"/>

6. Complete the following tables. Scattered site projects must complete the following Tables 1 and 2 for the project as a whole and also submit a separate Table 1 and 2 for each location as **Attachment C, C-1, etc.** **The information provided in the tables must be consistent with a market study completed pursuant to Section 5200 (a) of the CDLAC Regulations (as applicable), with the responses to Items 9, 10 and 11, which follow, and between the two tables.** If the rent shown in column “d” of Table 1 will be subsidized, provide a brief explanation of the subsidy in the blank space below.

Table 1.

(a) # of Bedrooms/ # of Bathrooms	(b) Unit Size (sq.ft.)	(c) # of Units	(d) Proposed Monthly Tenant-Paid Rent (Not including utilities)	(e) <u>Proposed Rental Subsidy Only</u>	(e) Total Monthly Tenant-Paid Rents (Not including utilities) (c x d)	(f) Monthly Utility Allowance	(g) Monthly Gross Rent (d + f)	(h) % of Area Median Income Based on Monthly Gross Rent
<i>Restricted Rental Units</i>								
			\$		\$	\$	\$	%
			\$		\$	\$	\$	%
			\$		\$	\$	\$	%
			\$		\$	\$	\$	%
			\$		\$	\$	\$	%
			\$		\$	\$	\$	%
			\$		\$	\$	\$	%
			\$		\$	\$	\$	%
Total #			Total		\$			

Projects currently subject to Hold Harmless Rents pursuant to the 2008 Federal Housing and Economic Recovery Act may continue to use Hold Harmless Rents in Column (d) of Table 1 when rents are below federal set-aside limits and applicable requirements.

Is your project currently subject to Hold Harmless Rents? ☐ Yes ☐ No

If "yes" what year was your project placed in service?

<i>Market Rate Units</i>				
			\$	\$
			\$	\$
			\$	\$
			\$	\$
Total # of Units			Total	\$

<i>Managers' Units</i>				
			\$	\$
			\$	\$

Total # of Units Total \$

Table 2.

(a) Total No. of Units (excluding Mgr. Units)	(b) Total No. of Restricted Units	(c) Percent of Total Restricted Units (b ÷ a)	(d) No. of Units at or below 50% AMI	(e) Percent of Units at or below 50% AMI (d ÷ a)	(f) No. of Units above 50% to 60% AMI	(g) Percent of Units above 50% to 60% AMI (f ÷ a)	(h) No. of Restricted Rental Units with 3 or more Bdrms.	(i) Percent of Restricted Rental Units with 3 or more Bdrms. (h ÷ b)
		%		%		%		%

7. Site Control

(See Section 5190(a) of the CDLAC Regulations.)

A current title report (completed no more than 90 days prior to application), labeled as *Attachment M*, shall be submitted with all applications for the purposes of this threshold requirement. As a condition of meeting this minimum requirement, the Project Sponsor must submit evidence of site control demonstrating its readiness to use the allocation. Applications not meeting this minimum requirement will be deemed incomplete. The evidence of site control must take at least one of the following forms. Evidence that is in addition~~al~~ to the mandatory title report must be labeled as **Attachment M-1, M-2**, etc.

Respond by checking as many forms as are applicable to the proposed Project.

Form of Evidence	Check here
The Applicant or Project Sponsor holds fee title as evidenced by the title report.	<input type="checkbox"/>
An executed lease agreement or lease option for the length of time the Project will be regulated under this program between the Project Sponsor and the owner of the subject property.	<input type="checkbox"/>
An executed disposition and development agreement between the Project Sponsor and a public agency.	<input type="checkbox"/>
A valid, current, enforceable contingent purchase and sale agreement or option agreement between the Project Sponsor and the owner of the subject property, including evidence that all extensions necessary to keep agreement current through the date of the award of allocation have been executed.	<input type="checkbox"/>
Valid, current and enforceable purchase and sale agreements, contingent purchase sale or option agreements in combination between the Project Sponsor, a third party and the owner of the subject property such that the Committee can determine that upon a grant of Allocation the Project Sponsor has a right to acquire the subject property.	<input type="checkbox"/>
Documentation from a local agency demonstrating its intention to acquire the site, or a portion of the site, through eminent domain proceedings. (In this instance, the CDLAC Executive Director has sole discretion to determine whether such documentation clearly demonstrates site control.)	<input type="checkbox"/>

8. Local Approvals and Zoning
(See Section 5190(b) of the CDLAC Regulations.)

The project Sponsor shall provide evidence, no later than the application due date for the allocation round in which the project is seeking an allocation, that the site is zoned for the Project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials have been obtained. Additionally, if any land use approval is subject to public appeal, within no less than 5 calendar days prior to the first public posting of the Committee, the applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits, but do not include design review approvals. The evidence of discretionary local approvals and zoning must be labeled as **Attachment N** or **N-1, N-2**, etc. and take at least one of the following forms.

Respond by checking as many forms as are applicable to the proposed Project.

Form of Evidence	Check here
CDLAC Zoning and Local Approval Verification Form bearing the signature of a local planning agency representative.	<input type="checkbox"/>
Letter from a local planning official that verifies all of the information requested by the CDLAC Zoning and Local Approval Verification Form.	<input type="checkbox"/>
Documentation from a local agency that clearly demonstrates the agency's intentions to acquire the Project site, or a portion of the Project site, through eminent domain proceedings.	<input type="checkbox"/>

9. Income Restriction
(See Section 5191 and Section 5192 of the CDLAC Regulations.)

Minimum Requirement

A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the Area Median Income (AMI). All of the rent restricted units that meet this requirement, with the exception of Mixed Income Pool projects and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the project. All such units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.

For federally assisted at-risk projects and 4% low income housing tax credit projects, this shall mean that the Project units must have Gross Rents that are restricted to households whose incomes must be 50% or less of the AMI; or Gross Rents that are restricted to households whose incomes must be 60% or less of the AMI. (Consult Section 5170 of the CDLAC Regulations for the definition of "Gross Rents".) Applications not meeting this minimum requirement will be deemed incomplete. Complete the tables in Item #6 of this PART III. The percentage in column "e" and "g" of Table 2 will be used to determine if the Project meets this minimum requirement.

If the Project is to be substantially retrofitted for energy conservation or will be newly constructed with substantial energy conservation, utility allowances based upon the lower utility cost projected after construction or retrofit may be submitted. Such lower utility allowances must be validated by a public utility letter or public housing authority letter, which provides estimates that are adjusted for significant energy conservation sources.

Exceeding the Minimum Income Restrictions Point Category (Section 5230(c) of the CDLAC Regulations)
(35 points maximum for non-Mixed Income Projects and 15 points maximum for Mixed Income Projects)

Projects will earn points for the percentage of units that are restricted to household incomes at or below 50% of the AMI and between 51% and 60% of the AMI. Federally assisted at-risk projects and 4% low income housing tax credit project will earn points for the percentage of units that have **Gross Rents** restricted to household incomes at or below 50% of the AMI and between 51% and 60% of the AMI. The percentages in columns “e” and “g” of Table 2 in Item #6 of this PART III will be used to determine the points earned in this category.

10. Gross Rents Point Category (Section 5230(d) of the CDLAC Regulations)

All projects that are subject to the use of Gross Rents will earn 5 points in this category. All proposed projects that are not subject to the use of Gross Rents but voluntarily do so will earn 5 points in this category.

Evidence of utility allowances shall be satisfied with a letter from the local housing authority that includes:

- a. A certification that the proposed Project is located within its jurisdiction. (ref: IRS Final Regulations T.D. 8520)
- b. A current utility allowance schedule.
- c. An itemization of which components of the utility allowance schedule apply to the Project.

The documentation evidencing a utility allowance must be labeled **Attachment O**, or if more than one document, as **O-1, O-2**, etc. In addition, columns “e”, “f” and “g” of Table 1 in Item #6 of this PART III will be used to determine if points are earned in this category.

11. Large Family Units Point Category (Section 5230(g) of the CDLAC Regulations)

Projects where at least 25% of the Restricted Rental Units are three-bedroom or larger units will earn points. The percentage in column “i” of Table 2 in Item #6 of this PART III will be used to determine the points earned in this category.

12. Market Study (Sections 5200 and 5250 of the CDLAC Regulations)

All Qualified Residential Rental Project applicants are required to submit a market study, labeled as **Attachment P**, as required by Section 5200 of the CDLAC Regulations. The market study must be prepared by an independent third party having no identity of interest with the development’s partners, intended partners, or general contractor and must be submitted with the Application. Scattered Site projects must also meet the requirements of Section 5250 of the CDLAC Regulations. Market studies for projects subject to Section 5200(a) of the CDLAC Regulations must be prepared within 180 days of the application filing deadline and include a 1-2 page summary of its findings, particularly with regard to comparable rental properties.

Acquisition/Rehabilitation projects subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement, and meeting the requirements of Section 5200(e)(1) or (2), may submit a market study meeting the requirements of Section 5200(e) of the CDLAC Regulations.

For projects submitting a market study meeting the requirements of Section 5200(a) of the CDLAC Regulations, the market study will be used to determine compliance with the minimum rent restriction requirement that restricted rents must be at least 10% below market rents (Section 5191(b) of the CDLAC Regulations). Please read the CDLAC Regulations posted on the Committee’s web site. **Note: The unit rents and square footages of the subject property used throughout the Market Study, including all Rent Comparison matrices, must be consistent with the same information shown in Table 1 in this application.**

<p>10 additional points. A Project eligible for points under subdivision Section 5230(b)(1) of the CDLAC Regulations 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), attached as Attachment P, and in a Rent Comparability Matrix, attached as Attachment R, utilizing three (3) market comparable properties for each restricted unit type in the Project. The information in columns “c”, “d”, and “e” of Table 1 in Item #6 of this PART III must show the same proposed rents as the market study and table(s).</p>	<input type="checkbox"/>
<p>Supporting documentation for Preservation Project points shall be submitted as Attachment L, L-1, L-2, etc.</p>	

Submit a **scaled-for-distance** map, labeled as **Attachment Q**, showing the location of the proposed Project and the comparable market rental properties. The map must be legible and must clearly show the proposed Project at the center of a circle with a 1-mile radius.

14. Term of Income and Rent Restrictions (Section 5192 of the CDLAC Regulations)

Minimum Term of Restrictions

The Qualified Project Period for the Project must be for at least 30 years. Projects 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 up to fifty-five (55) years. Consult the CDLAC Procedures for the definition of a Qualified Project Period. Applications not meeting this minimum requirement will be deemed incomplete.

Proposed Term of Restrictions.	
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15. Community Revitalization Criteria (Section 5230(i) of the CDLAC Regulations)

5 points. Projects located in a Community Revitalization area will qualify for five (5) points provided the following is submitted with the application as **Attachment S, S-1, etc.:**

(1) documentation showing that the Project is/will be located in at least one of the following areas:

Characteristics of a Community Revitalization Area	Check here
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	<input type="checkbox"/>
A Federal Promise Zone as defined in Section 5170 of the CDLAC Regulations	<input type="checkbox"/>

(2) a letter from a local government official demonstrating that the development will contribute to a concerted Community Revitalization Plan and that delineates 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.

16. Site Amenities Point Category (Section 5230(j)(2) of the CDLAC Regulations)

10 points maximum. The Project Sponsor must certify on **Attachment T** as to the amenities that are applicable to the proposed Project. A project may earn the following points for each amenity that is properly documented and certified to be applicable to the proposed Project.

Amenity	Check here
<p>A. 2.5 points for one of the following:</p> <p>The proposed Project is located within:</p> <p>(1) one-third (1/3) mile of a Public Transit Corridor a transit station, rail station, commuter rail station, bus station or bus stop; or</p> <p>(2) one-half (1/2) mile of a High Quality Transit stop or station; or</p> <p>(3) the proposed Project is a Rural Project as defined in Section 5000 of the CDLAC Regulations and is using a van or dial-a-ride service due to the lack of a public transportation system available in that Rural Area.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>B. Projects eligible for Transit Corridor, High Quality Transit or van/dial-a-ride service points under Section 5230(j)(2)(A)(1) or (2) will receive 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:</p> <p>(1) 3 points for at least one pass per rent-restricted unit; or</p> <p>(2) 1.5 points for at least one pass per each 2 Rent-Restricted units.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>C. 2.5 points.</p> <p>The proposed Project is located within ½ mile of a park or recreational facility.</p>	<p><input type="checkbox"/></p>

<p>D. 2.5 points for one of the following:</p> <p>The proposed Project is located within close proximity of groceries and other essential shopping needs. (Grocery means a full service store or supermarket that provides food staples; fresh meats, poultry, dairy products, and produce; as well as other personal and household products. For CDLAC purposes, convenience stores and mini-marts/markets are not considered full service stores or supermarkets).</p> <p>Select one of the following:</p> <ol style="list-style-type: none"> 1. The proposed Project is within ½ mile of a full scale grocery store/supermarket of at least 25,000 gross interior square feet. For Rural Projects, within 1 mile. 2. The proposed Project is within ¼ mile of a neighborhood market of at least 5,000 gross interior feet. For Rural Projects, within ½ mile. 	<div style="text-align: right;"><input type="checkbox"/></div> <div style="text-align: right;"><input type="checkbox"/></div>
<p>E. 2.5 points for one of the following:</p> <p>The proposed Project is located within close proximity of public schools (K-12 grades), (proposed projects that are restricted to residents 55 years or older shall not be eligible for points under this criterion).</p> <ol style="list-style-type: none"> 1. Within ¼ mile of a public elementary school; ½ mile of a public middle school, or 1 mile of a public high school that children living in the development may attend and that the site is within the attendance area of that school. 2. For Rural Projects, an additional ½ mile for each public school type that children living in the development may attend and that the site is within the attendance area of that school. 	<div style="text-align: right;"><input type="checkbox"/></div> <div style="text-align: right;"><input type="checkbox"/></div>
<p>F. 2.5 points for one of the following:</p> <p>The proposed Project is located within:</p> <ol style="list-style-type: none"> (i) 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic: <ol style="list-style-type: none"> (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 	<div style="text-align: right;"><input type="checkbox"/></div>

<p>that has an equally comprehensive subsidy program for low-income patients; or</p> <p>(ii) 1 mile (for Rural set-aside projects, 1 ½ miles) of a hospital (not merely a private doctor's office); or</p> <p>(iii) 1/2 mile (for Rural projects, 1 mile) of a pharmacy.</p>	
<p>G. 2.5 points. The proposed Project is located within ½ mile of a public library</p>	<input type="checkbox"/>
<p>H. 2.5 points. The proposed Project will provide high speed internet or wireless “WiFi” service connection to each unit. Service will be available by the placed in service date. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of 15 years, free of charge to the tenants, and available at the time of the project’s placed-in-service date.</p>	<input type="checkbox"/>

To earn points in this category, the amenity must already exist, with the following exception: 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. Future WiFi service is excluded from the letter requirement. In the case of a bus stop that does not currently exist, points will be awarded where it is shown that the bus provider and municipality have agreed on and approved the site for the stop and it will be in existence no later than two years after the development is placed in service. The Project Sponsor **must complete Attachment T** and provide the required evidence specified in Attachment T.

17. Service Amenities Point Category (Section 5230(l) of the CDLAC Regulations)

10 points maximum. The Project Sponsor must complete the certification in **Attachment U** as to the amenities that are applicable to the proposed Project. A project may earn 5 points, up to a maximum of 10 points, for each amenity that is properly documented and certified to be applicable to the proposed Project.

Service amenities must be appropriate to the tenant population served and committed to for a minimum of 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. Services must be provided on-site except that Projects may use off-site services within 1/2 mile (1 ½ miles for Rural projects) of the development provided that they have a written agreement with the service provider at the time of Application enabling the development’s tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Referral services will not be eligible for points. 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. 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 additionally submit a written agreement demonstrating that tenants will be provided with free of charge round-trip transportation between the development and the off-site services. 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; 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.

The application must propose a combined annual value of at least \$10,000, or \$5,000 for Projects of 20 units or fewer, for those services. In addition, any donated services must be assigned a dollar value by the provider of those services. All anticipated income and expenses associated with the Project's service amenities program(s) shall be included in **Attachment I**.

Amenity	Check here
A. Five (5) points will be awarded to Family Projects with after school programs of an ongoing nature. The programs shall include, but are not limited to: tutoring, mentoring, homework club, and art and recreation activities. The programs shall be provided weekdays throughout the school year for at least 10 hours per week.	<input type="checkbox"/>
B. Five (5) points will be awarded to Projects with instructor-led educational, health and wellness, or skill building classes. The classes shall include, but are 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. The classes shall be provided at a minimum of 84 hours per year (drop-in computer labs, monitoring or technical assistance shall not qualify).	<input type="checkbox"/>
C. Five (5) points will be awarded to Projects with licensed childcare providing 20 hours or more per week (Monday through Friday) to residents of the development.	<input type="checkbox"/>
D. Five (5) points will be awarded to Projects with health and 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 shall include, but are not limited to: visiting nurses programs, intergenerational visiting programs, and senior companion programs. The services shall be provided at a minimum of 100 hours per year.	<input type="checkbox"/>
E. Five (5) points will be awarded to Projects with a bona fide service coordinator/social worker available provided that the experience of the coordinator, the duties of the coordinator, and a budget to pay for the coordinator are included labeled as Attachment U-1 . 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.)	<input type="checkbox"/>

18. Minimum Sustainable Building Standards (Section 5205 of the CDLAC Regulations)

The Applicant, Project Sponsor and the Project's Architect shall complete the certification in Attachment V-1 that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects. The requirements of CDLAC Regulations Section 5205(a)(2) through (9) are only applicable when investment in such elements is proposed in the Project's scope of work and/or the Capital Needs Assessment. Please note that if seeking tax credits, please consider CTCAC's workbook requirements when developing your CDLAC application. (Section 10325 (f)(7)(A) of CTCAC regulations.)

<p>A. 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.</p>
<p>B. 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.</p>
<p>C. Roofs. Roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.</p>
<p>D. 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.</p>
<p>E. 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.</p>
<p>F. Window Coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.</p>
<p>G. 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.</p>
<p>H. Floor Coverings. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Carpeting shall comply with U.S. Department of Housing and Urban Development/ Federal Housing Administration UM44D.</p>

- I. Insulation. All fiberglass-based insulation shall meet the Greenguard Emission Criteria for Children and Schools as required by the California Tax Credit Allocation Committee Title 4, Division 17, Chapter 1, Section 10325.

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 not yet placed in service, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds.

- (1) The project sponsor with rehabilitation projects must submit the California Energy Commission HERS II energy consumption and analysis report which shows the pre- and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement, in their placed-in-service package.
- (2) The project sponsor shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:
 - o A certified HERS Rater
 - o A certified GreenPoint Rater; or
 - o A US Green Building Council Certification.

19. 10 points maximum. Sustainable Methods (Section 5230(k) of the CDLAC Regulations)

Sustainable Methods points will be awarded provided that the Project Sponsor and the licensed Project architect each submit a certification indicating which items will be included in the Project's design and any relevant specifications. ~~Respond by checking the box if applicable to the proposed Project.~~

~~A. 5 points. New Construction/Adaptive Reuse: Energy Efficiency Certification (Section 5230(k)(6) of the CDLAC Regulations).~~

~~Projects that develop and commit to certifying the Project under any one of the following programs:~~

Energy Efficiency Certification		Check here
Leadership in Energy & Environmental Design (LEED for Homes)		<input type="checkbox"/>
Green Communities		<input type="checkbox"/>
Green Point Rated Multifamily Guidelines.		<input type="checkbox"/>

~~B. Additional Points for Exceeding Energy Efficiency Certification for New Construction/Adaptive Reuse: (Section 5230(k)(7) of the CDLAC Regulations).~~

~~Projects receiving points under section A. may qualify for additional points for developing beyond the minimum requirements of the green building program chosen as follows:~~

Exceeding Energy Efficiency Standards			Check here
LEED for Homes	Silver	3 points	<input type="checkbox"/>
	Gold	5 points	<input type="checkbox"/>
Green Point Rated	Silver	3 points	<input type="checkbox"/>
	Gold	5 points	<input type="checkbox"/>

~~C. Additional Points for New Construction or Adaptive Reuse Projects not eligible for points under Section A (Section 5230(k)(8) of the CDLAC Regulations) shall be awarded energy efficiency points according to one of the following:~~

- ~~1. Energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in Title 24, Part 6, of the California Building Code:~~

Percentage Better than the 2013 Standards		Check here
9 percent	3 points for Low Rise/4 points for High-Rise	<input type="checkbox"/>
15 percent	5 points for Low Rise/6 points for High-Rise	<input type="checkbox"/>
24 percent	8 points for Low Rise/9 points for High-Rise	<input type="checkbox"/>
30 percent	10 points for Low Rise/10 points for High-Rise	<input type="checkbox"/>

- ~~2. Energy Efficiency with renewable energy that provides the following percentages of project tenants' energy loads:~~

Offset of Tenants' Load		Check here
20 percent	3 points for Low Rise/4 points for High-Rise	<input type="checkbox"/>
30 percent	4 points for Low Rise/5 points for High-Rise	<input type="checkbox"/>
40 percent	5 points for Low Rise only	<input type="checkbox"/>

~~D. Rehabilitation Projects: Home Energy Rating System (Section 5230(k)(9) of the CDLAC Regulations). Rehabilitation Projects that commit to improve energy efficiency above the modeled energy consumption of the building(s) based on existing conditions shall be awarded points based on the building(s) age and percentage decrease (or improvement in energy efficiency) in the building's Home Energy Rating System-II estimated annual energy use post rehabilitation. In the case of projects in which energy efficiency improvements have been completed within two years prior to the application date pursuant to 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. Points shall be awarded as follows:~~

Improvement Over Current	Points	Check here
15%	3 points	<input type="checkbox"/>
20%	5 points	<input type="checkbox"/>
25%	7 points	<input type="checkbox"/>
30%	10 points	<input type="checkbox"/>

~~E. Additional Points for Rehabilitation Projects (Section 5230(k)(10) of the CDLAC Regulations). Project's receiving points under section E. may qualify for additional points for committing to developing, and/or managing the Project with any one of the following:~~

A. 3 points. Photovoltaic generation or solar energy:	Check only one box for items i-iii
(i) The Project will include photovoltaic (PV) generation that offsets tenant loads; or	<input type="checkbox"/>
(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	<input type="checkbox"/>
(iii) Solar hot water for all tenants who have individual water meters	<input type="checkbox"/>
B. 3 points. The Project will individually meter or sub-meter currently master-metered gas, electricity, or central hot water systems for all tenants.	<input type="checkbox"/>
C. 2 points. The Project will implement sustainable building management practices that include: (i) Development of a project-specific maintenance manual including replacement specifications and operating information of all energy and green building features; and (ii) Undertaking formal building systems commissioning, retro-commissioning or re-commissioning as appropriate.	<input type="checkbox"/>

F. 5 points. Greywater Irrigation (Section 5230(k)(3) of the CDLAC Regulations).

Projects that commit to irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens).

Greywater Irrigation	Check here <input type="checkbox"/>
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G. 2 points. Non-Smoking Policy (Section 5230(k)(4) of the CDLAC Regulations).

Multi-building projects having at least one nonsmoking building, or projects comprised of only one building subject to a policy prohibiting smoking in contiguous designated units.

Multi-building project having at least one nonsmoking building	Check here <input type="checkbox"/>
Single building project having a policy prohibiting smoking in contiguous designated units	<input type="checkbox"/>

H. 2 points. Parking Ratio (Section 5230(k)(5) of the CDLAC Regulations).

	Check here <input type="checkbox"/>
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Parking ratios 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.	
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To receive points for Sustainable Methods in parts A through H above, the Project Sponsor and Architect must both sign the certification form (**Attachment V-2**).

The certifications shall attest that the applicable design elements described in this section will be included in the project's design and specifications and shall include the signature, the printed name, the title of the person making the certification and the date of signature. The signature of the Architect must indicate the appropriate license registration number.

If your application is approved, compliance will be demonstrated by the submission of the appropriate third party verification documentation showing the project has met the requirements for the relevant program. Projects that receive an award of low income housing tax credits (LIHTC) shall submit the third party verification 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 the third party verification 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). See section 5230 of the CDLAC Regulations for specific third party verification required for each sustainable building point category.

20. **10 points.** New Construction, Adaptive Re-Use and Substantial Rehabilitation Projects (Section 5230(m) of the CDLAC Regulations).

Points will be awarded to New Construction, Adaptive Re-Use and Substantial Renovation projects.

New Construction	Check here <input type="checkbox"/>
Adaptive Re-Use	<input type="checkbox"/>
Substantial Renovation	<input type="checkbox"/>

PART IV – PROJECT SPONSOR/DEVELOPER/PROPERTY MANAGER INFORMATION

PROJECT SPONSOR

Submit CDLAC form, **Attachment W-1**, that provides information pertaining to the Project Sponsor identified in PART I, Item #8, of this Application.

Submit CDLAC form, **Attachment W-2**, that provides information pertaining to the experience of the Project Sponsor (if different than the Developer). The Project Sponsor's CTCAC Certificate of Previous Participation and a CTCAC Schedule A form may be submitted as Attachment W-2 in lieu of the CDLAC form.

PROJECT DEVELOPER

Submit CDLAC form, **Attachment W-3**, that provides information pertaining to the Project Developer identified in PART I, Item #9, of this Application.

Submit CDLAC form, **Attachment W-4**, that provides information pertaining to the experience of the **Project Developer**. The Project Developer's CTCAC Certificate of Previous Participation and a CTCAC Schedule A form may be submitted as Attachment W-4 in lieu of the CDLAC form.

PROJECT SPONSOR AND DEVELOPER

Submit a list of California projects which the Developer and Project Sponsor (if different than the Developer) has developed or rehabilitated with tax-exempt bond financing. The list shall include the cities and counties in which the projects are located. The list shall be labeled as **Attachment W-5**.

PROJECT MANAGEMENT COMPANY

Submit CDLAC form, **Attachment X** that provides information pertaining to the property management company that will manage the proposed Project.

PART V – LEGAL STATUS OF PROJECT SPONSOR AND DEVELOPER

If a separate sheet is used to respond to the following questions, the sheet shall be labeled **Attachment Y**.

1. Financial Viability

Disclose any legal or regulatory action or investigation that may have a material impact on the financial viability of the project or the Project Sponsor and Developer. The disclosure should be limited to actions or investigations in which the applicant or the applicant's parent, subsidiary, or affiliate involved in the management, operation, or development of the project has been named a party.

Response (Not Applicable is an unacceptable response):

2. Fraud, Corruption, or Serious Harm

Disclose any legal or regulatory action or investigation involving fraud or corruption, or health and safety where there are allegations of serious harm to employees, the public, or the environment. The disclosure should be limited to actions or investigations in which the Project Sponsor and Developer or the Project Sponsor's and Developer's current board member (except for volunteer board members of non-profit entities), partner, limited liability corporation member, senior officer, or senior management personnel has been named a defendant within the past ten years.

Response (Not Applicable is an unacceptable response):

Disclosures should include civil or criminal cases filed in state or federal court; civil or criminal investigations by local, state, or federal law enforcement authorities; and enforcement proceedings or investigations by local, state or federal regulatory agencies. The information provided must include relevant dates, the nature of the allegation(s), charters, complaint or filing, and the outcome. For a publicly-traded company, the relevant sections of the company's 10K, 8K, and 10Q most recently filed with the Securities and Exchange Commission may be attached in response to question #1. With respect to a response for question #2, previous 10K, 8K, and 10Q filings of the company may be attached if applicable.

PART VI – CURRENT OWNER OF PROPERTY INFORMATION

Please provide information regarding the current owner of the project property, if other than the Project Sponsor, by submitting CDLAC **Attachment Z**.

QRRP APPLICATION DOCUMENTS CHECKLIST

This checklist is provided to ensure that a completed application package is filed with the Committee. If an attachment does not apply, please write N/A in the space provided.

Your application package must contain the following:

Check Box	Document Description	Attachment Name
	\$ 600 <u>1200</u> initial filing fee. (See Section 5054 of CDLAC Regulations.)	
	Signed <u>Performance</u> Deposit Certification Form. (See Section 5054 <u>5050</u> of CDLAC Regulations.)	
	Proof of Performance Deposit	
	Completed and <u>signed</u> application form.	
	Adopted Inducement Resolution. (See Section 5033(b)(54) CDLAC Regulations.)	A
	Evidence of TEFRA process <u>and noticing</u> . (See Section 5033(b)(65) of CDLAC Regulations.)	B
	Scattered-site Projects only. Application p. 13 Tables 1 and 2 for each location.	C, C-1, etc.
	Commitment(s) for credit enhancement or private placement bond purchase. If FHA non-Forward Commitment, HUD Acknowledgement letter must be included. (See Article 6 of Chapter 1 <u>Sections 5060, 5061 and 5062</u> of CDLAC Regulations.)	D or D-1, D-2 etc.
	Itemized breakdowns of the complete sources of funds for construction.	E-1
	Itemized breakdowns of the complete sources and uses of funds for permanent financing. Submit CDLAC Attachment E-2, <u>or</u> TCAC <u>Application</u> Section IV Sources and Uses Budget Part 1: Sources and Uses Budget Form , or comparable document.	E-2
	Itemized list of all liens to be paid off at closing.	E-3
	Breakdown of the amount and type of direct and indirect public funds (form provided by CDLAC). (See Section 5230(h) of the CDLAC Regulations.)	F
	Commitment(s) or other evidence of direct and indirect public funds. (See Section 5230(h) of CDLAC Regulations.)	F-1, F-2 etc.
	Relocation Plan, if Acquisition and Rehabilitation project.	G or G-1
	High per-unit cost justification	G, G-1 or G-2
	Itemized breakdown of the hard construction costs.	H or H-1
	Capital Needs Assessment. (See Section 5212 of CDLAC Regulations)	H-2
	Itemized breakdown of operating expenses (form provided by CDLAC).	I

	Narrative of prior allocation award and reason for new request.	J
	Narrative description of the proposed Project.	K
	Evidence of Preservation Project <u>and HAP contract, if applicable.</u> (See Section 5230(b) of the CDLAC Regulations.)	L or L-1, L-2 etc.
	Evidence of site control. (See Section 5190(a) of the CDLAC Regulations.)	M, M-1, M-2 etc.
	Evidence of local approvals and zoning (form provided by CDLAC). (See Section 5190(b) of the CDLAC Regulations.)	N or N-1, N-2 etc.
	Justification or validation of utility allowance. (See Section 5230(d) of the CDLAC Regulations.)	O
	Market Study. (See Section 5200 of the CDLAC Regulations.)	P
	Scaled-for-distance map showing the proposed Project at the center of a circle that encompasses the comparable market rental properties.	Q
	Rent Comparability Matrix (See Section 5200 of CDLAC Regulations.) Eligible Projects submitting a Market Study pursuant <u>to</u> Section 5200(e) of the CDLAC Regulations are exempt from submitting Rent Comparability Matrices unless requesting points for below market rents pursuant to Section 5230(b)(3) of the CDLAC Regulations. Scattered-site Projects only. Application p-13 Tables 1 and 2 for each location.	R
	Documentation confirming Community Revitalization Area designation and activities. (See Section 5230(i) of the CDLAC Regulations.)	S, S-1, etc.
	Project Sponsor's certification that the site amenities are existing and are appropriate for the population being served. (See Section 5230(i j)(1) <u>and (2)</u> (A) of the CDLAC Regulations.)	T
	Public transit or van or dial-a-ride service time schedule and route map showing the proposed Project is within ¼ mile of a Public Transit Corridor.	T-1
	Scaled-for-distance map showing the proposed Project at the center of a circle with a ½-mile radius and the location of the applicable site amenities within such radius.	T-2
	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	T-3
	Project Sponsor's certification that the service amenities are appropriate for the population being served. (See Section 5230(l)(1)(A) of the CDLAC Regulations.)	U
	Experience and duties of the bona fide service coordinator/social worker and minimum 1-year contract for services, MOU, or commitment letter on agency letterhead	U-1
	Detailed budget displaying all anticipated income and expenses associated with the Project's service amenities and evidence of the combined annual value of the service amenities.	U-2

	Scaled-for-distance map showing the location of off-site service amenities, if any, within ¼ mile of the proposed Project.	U-3
	Minimum Sustainable Building Standards certification by the Project Sponsor, Project Architect, and Applicant (See Section 5205 of the CDLAC Regulations).	V-1
	<u>Sustainable Methods</u> Certifications by the Project Sponsor, Project Architect, and Applicant (See Section 5230(k) of the CDLAC Regulations).	V-2
	Information pertaining to the Project Sponsor.	W-1
	Information pertaining to the Project Sponsor's experience (form provided by CDLAC).	W-2
	Information pertaining to the Project Developer.	W-3
	Information pertaining to the Project Developer's experience (form provided by CDLAC).	W-4
	A list of the Project Sponsor's and Developer's California projects with applicable cities and counties that were developed or rehabilitated with tax-exempt bond financing.	W-5
	Information pertaining to the proposed property management company (form provided by CDLAC).	X
	Responses to PART V – Legal Status of Applicant and Project Sponsor.	Y
	<u>Responses to PART VI</u> , if applicable, information pertaining to Current Owner of property (form provided by CDLAC).	Z

**PERFORMANCE DEPOSIT CERTIFICATION FORM
FOR AN APPLICATION FOR AN ALLOCATION OF QUALIFIED PRIVATE ACTIVITY BONDS**

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE (CDLAC)

915 Capitol Mall, Room 311
Sacramento, CA 95814
(916) 653-3255

**CERTIFICATION OF THE _____ (Applicant)
REGARDING AN APPLICATION FOR QUALIFIED PRIVATE ACTIVITY BOND ALLOCATION**

In connection with the following Qualified Private Activity Bond Application:

APPLICANT:

AMOUNT OF ALLOCATION REQUESTED: \$

PROJECT NAME/PROJECT TYPE:

the undersigned officer of the _____ (Applicant) hereby certifies as follows:

1. I, _____ (Name), am the _____ (Title) of the _____ (Applicant), and am duly authorized to make the deposit required below.
2. The _____ (Applicant) has collected and has placed on deposit in an account in a financial institution \$_____, _____ dollars (write out dollar amount in words), which **equals one half of one percent** of the amount of the Qualified Private Activity Bond Allocation being requested, **not to exceed \$100,000**.
3. The deposit will be held until receipt of a written notification from the California Debt Limit Allocation Committee that the deposit is authorized to be released or forfeited, in whole or in part, pursuant to Article 5 of Chapter 1 of the Committee's Regulations.
4. To the extent that any portion of the deposit is forfeited, the Applicant agrees to send the required amount in a check made payable to "The California Debt Limit Allocation Committee." Such check shall be mailed to the Committee at the address noted above immediately upon receipt of the written notification from the Committee.
5. The undersigned has read the Regulations of the California Debt Limit Allocation Committee and understands that if a Qualified Private Activity Bond Allocation is not used for the purpose for which it was granted, the performance deposit must be forfeited to the Committee.

Signature of Senior Official

Print or Type Name

Title

Date

1. Each Applicant for a Qualified Private Activity Bond Allocation must submit evidence to the Committee that it has on deposit in an account in a financial institution an amount **equal to one half of one percent** of the amount of Qualified Private Activity Bond Allocation being requested, **not to exceed \$100,000**. Applicants are advised to read Article 5 of Chapter 1 of the Committee's Regulations.
2. The Performance Deposit Certification Form (see other side) must be filed with the Committee in conjunction with the filing of an Application and by the Application Deadline.
3. The Committee will authorize release or require forfeiture of the deposit as follows:
 - a. If the Committee provides no Allocation, or grants an amount lower than requested by the Applicant, the Committee will authorize release of the deposit or release of a pro rata amount of the deposit so that only one-half of one percent (0.5%) of the Allocation granted is on deposit;
 - b. If the Applicant uses only a portion of the Allocation granted to issue bonds (or convert the Allocation to mortgage credit certificate authority), the Committee will authorize the release of the deposit in accordance with the conditions imposed at the time of Allocation. The Committee will approve the Allocation with the deposit fully refundable if 80% or more of the Allocation is used to issue bonds prior to the expiration date. If less than 80% of the Allocation is used to issue bonds prior to the expiration date, the refundable performance deposit will be pro-rated. For Mortgage Credit Certificate Programs, if 80% or more of the Allocation is converted to mortgage credit certificate authority and at least one mortgage credit certificate is issued prior to the expiration date, the performance deposit will be refunded in full. If less than 80% of the Allocation is converted to mortgage credit certificate authority and at least one mortgage credit certificate is issued prior to the expiration date, the refundable performance deposit will be pro-rated.
 - c. If the Applicant does not use any of the Allocation to issue bonds prior to the expiration date (or convert the Allocation to mortgage credit certificate authority and issue at least one mortgage credit certificate prior to the expiration date), the entire deposit will be forfeited; and
 - d. If the Applicant or the Project Sponsor withdraws the Application in writing prior to the Committee's consideration of the Application, the performance deposit shall be automatically released and no written authorization from the Committee shall be necessary.
4. If the Applicant forfeits all or a part of a deposit pursuant to Article 5 of Chapter 1 of the Committee's Regulations, the Applicant shall send the required amount to the Committee in a check made payable to "The California Debt Limit Allocation Committee". Amounts received will be deposited in the Committee's Fund.
5. Project Sponsors bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the Committee Resolution.

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

ATTACHMENT F

PUBLIC LOAN AND GRANT SUBSIDIES

If one or more of the following subsidies are proposed indicate with an "X", state the amount, and include a copy of the commitment.

	<u>"X"</u>	<i>Amount</i>
HOME Investment Partnership Act (HOME)	<input type="checkbox"/>	\$
Community Development Block Grant (CDBG)	<input type="checkbox"/>	\$
RHS 514, 515, 516, 538	<input type="checkbox"/>	\$
Century Housing Corporation	<input type="checkbox"/>	\$
Redevelopment Set-aside	<input type="checkbox"/>	\$
HCD's Multifamily Housing Program	<input type="checkbox"/>	\$
Federal Home Loan Bank AHP Funds	<input type="checkbox"/>	\$
Other (Specify)	<input type="checkbox"/>	\$

TAXABLE DEBT FINANCING

List below the taxable debt lenders.

Name of Lender	Term in Months	Interest Rate	Amount of Funds
		%	\$
		%	\$
		%	\$
		%	\$
		%	\$
		%	\$
Total Taxable Debt			\$

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
and
THE CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ADVISORY COMMISSION**

**APPLICATION FOR AN ALLOCATION OF THE STATE CEILING ON QUALIFIED PRIVATE
ACTIVITY BONDS FOR A SMALL-ISSUE INDUSTRIAL DEVELOPMENT BOND PROJECT**

APPLICANT: _____

PROJECT SPONSOR (Borrower): _____

PROJECT NAME: _____

Bonds issued by a local governmental entity on behalf of a Project Sponsor must receive approval from the California Industrial Development Financing Advisory Commission (CIDFAC) prior to receiving a Qualified Private Activity Bond Allocation.

CIDFAC APPLICANTS ONLY:

We represent that we have read the Regulations promulgated by CIDFAC and that the proposed Project is in compliance with those requirements. We understand that the Allocation from CDLAC is contingent upon the prior approval from CIDFAC.

ALL APPLICANTS:

We, the undersigned, hereby make Application to The California Debt Limit Allocation Committee (“CDLAC”) and The California Industrial Development Financing Advisory Commission (“CIDFAC”) (if applicable) for the purpose of providing a Small-Issue Industrial Development Bond Project (SIIDBP), as described herein.

We agree it is our responsibility to provide two original complete Applications that bear original signatures and two duplicate copies of the Application, accompanied by one check made payable to CDLAC in the amount of ~~\$600,001,200~~ and a completed CDLAC Performance Deposit Certification form and one check made payable to CIDFAC in the amount of **\$1,250.00** **(CIDFAC fee applicable only to those Applicants subject to CIDFAC oversight and approval)**. We understand that succinct answers providing the requested information are required. We understand that if additional space is required, each additional page will be clearly labeled. We agree that it is also our responsibility to provide all information that is deemed by CDLAC and CIDFAC (if applicable) to be necessary to evaluate our Application. We understand that CDLAC and CIDFAC (if applicable) may verify the information provided and analyze materials submitted as well as conduct their own investigation to evaluate the Application. We recognize that we have a duty to inform CDLAC and CIDFAC (if applicable) when any information in the Application or supplemental materials is no longer true and to supply CDLAC and CIDFAC (if applicable) with accurate information.

We represent that we have read all Government Code sections relevant to the CDLAC Regulations Implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds (“Regulations”). We acknowledge that CDLAC recommends that we seek advice from bond counsel, tax attorney and/or tax advisor on matters of eligibility and compliance for tax-exempt bond financing under federal law and regulations.

~~We acknowledge that bonds issued by a local governmental entity on behalf of a Project Sponsor must receive approval from the California Industrial Development Financing Advisory Commission (CIDFAC) prior to~~

~~receiving a Qualified Private Activity Bond Allocation. We represent that we have read the Regulations promulgated by CIDFAC and that the proposed Project is in compliance with those requirements. We certify that the Application has been filed with CIDFAC for its consideration and approval. We understand that the Allocation from CDLAC is contingent upon the prior approval from CIDFAC.~~

We understand that at the time of bond closing, additional sums of money will be owing to CDLAC and CIDFAC (if applicable) other than the amounts specified on page 1 of this Application. We represent that we have read the pertinent sections of the CDLAC Regulations and CIDFAC Regulations (if applicable) regarding fees.

We acknowledge that all materials and requirements are subject to change by enactment of federal or state legislation.

In carrying out the development and operation of the proposed project, we agree to comply with all applicable federal and state laws regarding unlawful discrimination and will abide by all CDLAC and CIDFAC (if applicable) program requirements.

We acknowledge that our Application will be evaluated based on federal and state statutes and regulations pertaining to Qualified Private Activity Bonds for Small-Issue Industrial Development Projects and the CDLAC Regulations, which identify the minimum requirements, evaluation criteria, priorities and other standards which will be employed to evaluate Applications.

We acknowledge that the information submitted to CDLAC and CIDFAC (if applicable) in this Application or supplemental thereto may be subject to the Public Records Act or other disclosure. We understand that CDLAC and CIDFAC (if applicable) may make such information public. CDLAC and CIDFAC (if applicable) will maintain as confidential, certain financial information, but cannot guarantee confidentiality.

The Project Sponsor declares under penalty of perjury that the information contained in the Application, exhibits, attachments, and any further or supplemental documentation is true and correct to the best of its knowledge and belief. The Applicant declares that the information contained in PARTS I and II of the Application is true and correct to the best of its knowledge and belief, and as to information contained in the Application, exhibits, attachments, and further or supplemental documentation provided by the Project Sponsor, the Applicant is not aware of any information that would cause the Applicant to believe that the Application contains any untrue information or omits to state any material information. We understand that misrepresentation may result in the cancellation of an Allocation, and other actions which CDLAC is authorized to take.

The Project Sponsor certifies that the project can be completed within the development budget and the development timetable set forth in our Application. The Project Sponsor further certifies that the proposed project can be operated in the manner proposed within the operating budget set forth in the Application.

The Applicant certifies that it is in compliance with all applicable statutes, laws, rules, and regulations necessary for the transaction of its business.

We agree to hold CDLAC and CIDFAC (if applicable), their members, officers, agents, and employees harmless from any matters arising out of or related to the awarded Allocation. We acknowledge that all Application materials are to be delivered to the address below, **by 4:00 p.m.** on the appropriate date at the following address:

The California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814

Signature of Applicant's Senior Official

Signature of Project Sponsor

Print Name

Print Name

Title

Title

Date_____

Date_____

Additional information regarding the application process may be obtained by accessing ~~the Committee's~~ CDLAC's web-site website at <http://www.treasurer.ca.gov/cdlac> or by calling ~~the Committee~~ CDLAC at (916) 653-3255. Additional information regarding CIDFAC and its requirements may be obtained by accessing CIDFAC's website at <http://www.treasurer.ca.gov/cidfac/> or by calling CIDFAC at (916) 653-3843.

The California Debt Limit Allocation Committee and the California Industrial Development Financing Advisory Commission ~~complies~~ comply with the Americans with Disabilities Act (ADA) by ensuring that the facilities are accessible to persons with disabilities, and providing this notice and information given to the members of the California Debt Limit Allocation Committee and the California Industrial Development Financing Advisory Commission in appropriate alternative formats when requested. If you need further assistance, including disability-related modifications or accommodations, you may contact the California Debt Limit Allocation Committee at (916) 653-3255 or TDD (916) 654-9922 or the California Industrial Development Financing Advisory Commission at (916) 653-3843 or TDD (916) 654-9922.

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
and
THE CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ADVISORY COMMISSION**

**APPLICATION FOR AN ALLOCATION OF THE STATE CEILING ON QUALIFIED PRIVATE
ACTIVITY BONDS FOR A SMALL-ISSUE INDUSTRIAL DEVELOPMENT BOND PROJECT**

All references to federal statute are cited for information only. Bond Counsel must be consulted as the requirements are subject to change.

PART I – FINANCING TEAM INFORMATION

1. ISSUER (APPLICANT) OF BONDS

Name of Issuing Agency:
Name of Senior Official:
Title of Senior Official:
Mailing Address:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

Issuer's Federal Identification No.:

2. PUBLIC JURISDICTION (jurisdiction in which proposed Project is located, if different from above)

Name of Jurisdiction:

Name of Contact Person:
Title of Contact Person:
Mailing Address:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

3. ISSUER CONTACT (staff person who can answer questions regarding this application)

Name of Staff Person:
Title of Staff Person:
Name of Agency (if different from #1 above):
Mailing Address:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

4. BOND COUNSEL

Name of Firm:
Name of Attorney:
Mailing Address of Firm:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

5. BOND UNDERWRITER

Name of Firm:
Name of Contact:
Mailing Address of Firm:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

6. PRIVATE PLACEMENT AGENT (IF APPLICABLE)

Name of Firm:
Name of Contact:
Mailing Address of Firm:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

7. PRIVATE PLACEMENT BOND PURCHASER (IF APPLICABLE)

Name of Firm:
Name of Contact:
Mailing Address of Firm:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

8. CREDIT ENHANCEMENT PROVIDER

Name of Firm:
Name of Contact:
Mailing Address of Firm:
City:
State:
Zip Code:

Telephone: ()
Fax: ()
E-Mail:

9. FINANCIAL ADVISOR/CONSULTANT

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

10. TRUSTEE (for CIDFAC purposes)

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

11. OTHER PARTICIPANTS

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

PART II – ALLOCATION/BOND ISSUE INFORMATION

1. Amount of allocation requested: \$
2. Proposed date of bond issuance and proposed terms:
3. Date of inducement:

Attach (**Attachment “A”**) a copy of the adopted resolution. (See Section 5033~~(5)(b)(4)~~ of CDLAC Regulations.)

4. Date of TEFRA approval:

Submit (**ATTACHMENT “B”**) proof of TEFRA (public approval process required by 26 U.S.C. Section 147(f)). (See Section 5033(b)(5) of the CDLAC Regulations.)

For an open application process, see time lines posted on the Committee’s website.

5. Indicate whether the bonds will be variable or fixed rate:
(See Chapter 1, Article 6 of the CDLAC Regulations)

If bonds carry a variable rate:

- a. Identify the index:
- b. How frequently will the bonds be re-marketed and by whom?
- c. Is there a feature to allow a conversion to a fixed rate at some time in the future? If so, under what conditions and when?

6. Indicate whether bonds will be sold in a public offering or in a private placement:
(See Chapter 1, Article 6 of the CDLAC Regulations)

7. CIDFAC APPLICANTS ONLY: For CIDFAC purposes, indicate if the bond issuance will be used to refund an outstanding issue:

8. Briefly describe credit enhancement structure or private placement transaction (include, at a minimum, the construction or interim financing, if applicable, the amount, closing deadlines, security/collateral provided, guaranties, anticipated closing date, etc.):
(See Chapter 1, Article 6 of the CDLAC Regulations)

Attach (**Attachment “C”**, if more than one commitment, label Attachments in sequential order as “**C-1, C-2”**, etc.) the credit enhancement commitment or the commitment to purchase privately placed bonds. (See Chapter 1, Article 6~~Sections 5061-5064~~ of the CDLAC Regulations.)

9. Anticipated bond rating ~~(see Section 5061 of the CDLAC Regulations)~~(See Chapter 1, Article 6 of the CDLAC Regulations):

<u>Rating</u>	<u>Date Rating Anticipated</u>
Fitch	
Moody's	
Standard & Poor's	
Other	

10. Indicate the amount of taxable debt that will be issued in conjunction with the proposed tax-exempt bonds (See Section 5370(g) of the CDLAC Regulations. If applying for points for taxable debt, this will be a requirement imposed on the allocation):

Attach (**Attachment “D”**) documentation demonstrating that the proceeds of the Taxable Debt will be used towards project expenses directly related to job creation or Community Economic Need.

PART III – PROJECT SPONSOR INFORMATION

1. Please answer the following questions for both the Project Sponsor (“Borrower”) and the user of the facility, if different:

A. Official business name, address, telephone number, fax number, e-mail address and contact person:

BORROWER:

USER:

B. Any “Doing Business As” names:

C. Address of Project Sponsor’s headquarters, if different from address in “A” above:

D. Other operating locations in California:

E. The legal structure of the Project Sponsor (i.e. corporation, partnership or sole proprietorship):

Complete the appropriate section below:

Corporation

i) Officers of the Corporation

ii) Major Shareholders (10% or more)

iii) Date and place of incorporation:

iv) For publicly held corporations, stock exchange on which the company is listed. If traded over the counter or on NASDAQ, please indicate the market makers.

Partnership

- i) Names and addresses of general and limited partners, and share of ownership.
- ii) Date of partnership.

Sole Proprietorship

- i) Date and place of establishment.
- F. Federal Tax Identification Number for Project Sponsor and user, including IRS Office where tax returns are filed:
- G. Standard Industrial Code (SIC) Number or the North American Industry Classification System (NAICS) of Project Sponsor and user:
- H. Description of principal products and/or services:
- I. Major customers of firm's products, identifying specific companies and types of customers (i.e., discount retailer):
- J. Description of present physical facilities, including size and use of facility:
- K. Other tax-exempt financings currently outstanding:
2. If the Project Sponsor or user is an owner, subsidiary or affiliated directly or indirectly with any other business or organization, indicate the relationship.
3. **CIDFAC APPLICANTS ONLY:** Attach (**Attachment "E"**) the Financial Statements of the Project Sponsor for the past three years. For public corporations, these should be the latest 10Ks; for private companies, the highest level (i.e. highest level refers to compilation or audited financial statement) of financial statements available. ~~[This information will be reviewed by the California Industrial Development Financing Advisory Commission.]~~
4. **CIDFAC APPLICANTS ONLY:** ~~For CIDFAC purposes,~~ Indicate if the Project Sponsor considered other issuers that could have been used for this financing? If no, why not? If so, explain why the Project Sponsor prefers to use the Issuer identified in this Application.

PART IV – PROJECT INFORMATION

1. Project Name:
2. Project Street Address:
City:
County:
Zip Code:

(The zip code must be included. If the project site does not yet have a street address, contact the local United States Post Office for an approximate zip code.)

Federal Congressional District in which the proposed Project is located:

State Senate District in which the proposed Project is located:

State Assembly District in which the proposed Project is located:

Census Tract in which the proposed Project is located:

3. Attach (**Attachment “F”**) a description of current improvements on the site, including age, current use and size; include pictures. If this site is currently vacant, please describe prior use:
4. Indicate by a **“YES”** or **“NO”** that the Project Sponsor currently owns the Project site:

If Project Sponsor does not own the site, attach (**Attachment “G”**) a description of escrow agreement, lease agreement, options or other evidence of the Project Sponsor’s plan to lease the site or acquire the site.
5. Proposed Project Description (Attachment “H”). Please include~~including~~ all of the following ~~(Attachment “H” including all of the following)~~:
 - A. Description of project, including whether it constitutes a renovation or new construction, the number of square feet to be constructed/renovated, the type of equipment being purchased and any other pertinent information.
 - B. Estimated time of construction or renovation, including start date and completion date.
 - C. Principal products, uses and activities of project, including SIC or NAICS Code of activity to be financed.
 - D. Estimated useful life of buildings and/or equipment.
 - E. Brief narrative describing purpose of project, explaining the business rationale and economic benefits to be achieved from the project.
 - F. **CIDFAC APPLICANTS ONLY:** Brief narrative indicating how the project meets the eligibility qualifications as defined by Section 91503 of the California Industrial Development Financing Act.

6. **Costs of the Project.** State the total costs associated with the acquisition of the site and construction of the proposed project, including any utilities and proposed machinery and equipment purchases. Separate the costs based on their financing sources: the left column should total the bond amount; the sum of both columns should equal the total project costs.

	To Be Paid From Bond Proceeds	To Be Paid From All Other Sources
Acquisition of Land ¹	\$	\$
Acquisition of Existing Buildings	\$	\$
Fees and Other Charges Related to Sale	\$	\$
Rehabilitation of Existing Building(s)	\$	\$
Site Preparation	\$	\$
Construction of New Building(s)	\$	\$
Utilities Connection	\$	\$
Acquisition and Installation of Used Equipment	\$	\$
Acquisition and Installation of New Equipment	\$	\$
(a) Invoice	\$	\$
(b) Installation	\$	\$
(c) Other (please explain)	\$	\$
Engineering/Architecture	\$	\$
Legal, Permits, etc.	\$	\$
Bond Issuance Expenses ² (including discount)	\$	\$
Letter of Credit or Bond Insurance Fee	\$	\$
Interest During Construction	\$	\$
From to		
Interest Income During Construction	\$	\$
From to		
Other (please explain)	\$	\$
	Total Bond Amount	Total Other Costs
	\$	\$

1 Only 25% of bond proceeds may be applied to the acquisition of land. This cost includes the cost of demolition of any existing buildings.

2 Total of issuance expenses paid from bond proceeds cannot exceed 2% of face amount of bonds.

NOTE: Project costs may not include working capital, moving expenses, inventory or assumption, repayment or refinancing of existing indebtedness other than construction loans.

7. **CIDFAC APPLICANTS ONLY:** Answer “YES” or “NO” to indicate if completion of the project will contribute to job displacements resulting from site clearance or the demise of competing firms. If “YES”, explain below:

8. **CIDFAC APPLICANTS ONLY:** Answer “YES” or “NO” to indicate if construction of the project or completion of the project, will have any adverse environmental impact, including additional waste disposal. If “YES”, please describe below:
9. **CIDFAC APPLICANTS ONLY:** Please estimate types and costs of new public services or infrastructure improvements required by the project, including utility upgrades and street improvements, and provide the estimates below:
10. **CIDFAC APPLICANTS ONLY:** Relocation
- If financing is required for relocation of a facility within the State of California, attach (**Attachment “T”**) documentation that contains all of the following information (A through C):
- A. The relocation is due to one of the following:
- i. An inadequacy of the existing facility.
 - ii. A significant change in the company’s operations that would require a different location.
 - iii. A building moratorium where the existing facility is located.
 - iv. Expiration of the existing lease and proof that it cannot be renewed on reasonable economic terms.
 - v. An economic need to move closer to the company’s customers or supplies.
 - vi. Inability to find adequate expansion space in the existing community.
 - vii. Other.
- B. Whether the Project Sponsor or user will retain its current employees at the new facility. If so, describe the steps the company will take to mitigate the effects of the relocation on its current employees. Examples of measures include relocation expenses or transportation assistance.
- C. Whether the relocation is necessary to prevent the relocation of substantial operations of the company outside of the State, or the abandonment of substantial operations of the company. If so, document.

PART V – MINIMUM REQUIREMENTS

Applicants are advised to read Section 53725369 of the CDLAC Regulations regarding Small-Issue Industrial Development Bond Projects when answering the following questions.

1. Attach (**Attachment “J”**, if more than one, label each attachment in sequential order as **“J-1, J-2”** etc.) evidence of all required local approvals or permits relating to the project (i.e. conditional use permits, zoning variances, etc.) from federal, state or local planning agencies other than ministerial approvals, in one or more of the following forms (identify the form of evidence by responding “yes” to the appropriate item):
 - A. Copies of local land use approvals, which allow the discretion of local elected officials to be applied (General Plan amendments, rezoning, conditional use permits, etc.):
 - B. Documentation by a local agency that clearly demonstrates the agency’s intentions to acquire the Project Site, or a portion of the Project Site, through eminent domain proceedings:
 - C. A certification, using the attached form provided by CDLAC (if used, the form should be labeled **Attachment “J”**) from the jurisdiction in which the proposed Project is located, evidencing the status all required approvals/permits:

PART VI – EVALUATION CRITERIA

Applicants are advised to read Section 5370(a)-(h) of the CDLAC Regulations regarding Small-Issue Industrial Development Bond Projects when answering the following questions.

1. Community Economic Need
(Section 5370(a) of CDLAC Regulations)

Answer “YES” or “NO” to the following:

- A. The proposed project is located in a community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department’s most recent annual average for sub-county areas. (10 Points Max)(See Section 5370(a)(1) of CDLAC Regulations):
- a. Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average. (10 points)
 - b. Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average. (5 points)

~~CDLAC~~sStaff will perform the calculations based on the preceding year unemployment rate of the county sub area in which the proposed Project will be located compared to the statewide unemployment rate. The sub county unemployment rate and the statewide unemployment rate for the preceding year may be found at the state Employment Development Department website <http://www.calmis.cahwnet.gov>.

- B. The proposed project is located in a community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as a census tract or tracts, smaller geographic areas will be used. (5 Points Max) (See Section 5370(a)(2)):
- Project is located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate. (5 points)
 - Project is located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate. (3 points)

~~CDLAC~~sStaff will perform the calculations based on the poverty rate of each census tract within a one-mile radius of the Project site compared to the statewide poverty rate. The census tracts poverty rates and the statewide poverty rate may be found at the federal Census Bureau website <http://www.census.gov>.

Please list all of the census tracts that are within a one-mile radius of the Project:

- ~~B.C.~~ The proposed project is located in a community with a median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project

benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used. (See Section 5370(a)(4)(3) of CDLAC Regulations)(5 Points Max):

~~CDLAC s~~Staff will perform the calculations based on the most recent data from the United States Bureau of the Census, the estimated median family income of the cities or Census Designated Places.

~~C. The proposed project is located in a community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as a census tract or tracts, smaller geographic areas will be used. (5 Points Max) See Section 5370(a):~~

~~CDLAC s~~Staff will perform the calculations based on the poverty rate of each census tract within a one-mile radius of the Project site compared to the statewide poverty rate. The census tracts poverty rates and the statewide poverty rate may be found at the federal Census Bureau website <http://www.census.gov>.

~~Please list all of the census tracts that are within a one-mile radius of the Project: _____~~

~~2. Job Creation / Retention (Section 5370(b) of CDLAC Regulations). Using Attachment “K”, provide the Project Sponsor’s or User’s current figures on employment payroll and sales volume and the best estimate of these figures at two years after completion of project. In addition, please complete the Project Site section on Attachment “K”. All responses are to be based on average monthly hours worked.~~

2. Job Creation (35 points maximum) (Section 5370(b)(1) of CDLAC Regulations)

The award of points for Job Creation is based on the Borrower and/or User’s representation that they will make their best efforts to increase the number of direct, full-time employees at the Project site within two years of Project completion:

- 10 percent to 20 percent increase (10 points)
- 21 percent to 30 percent increase (20 points)
- 31 percent or more increase (35 points)

3. Job Retention (10 points maximum) (Section 5370(b)(2) of CDLAC Regulations)

The award of points for Job Retention is based upon receipt of written confirmation from the appropriate local governmental entity that the company was contemplating moving or closing within two years of its application for tax-exempt IDB financing, and that the ongoing operations of the company within the local jurisdiction is important to the local economy and employment. Alternatively, the Applicant may submit written evidence from the Borrower and/or User that the company, within two years prior to the submission of an application for tax-exempt IDB financing, engaged a “site selector” to find possible relocation sites outside of California (Attachment “K”). (10 points)

~~3. Weighted average hourly wage (Section 5370(e) of CDLAC Regulations). Using Attachment “K”, calculate the average hourly wage for all positions to be created or retained by the project. The average hourly wage will be determined by (1) multiplying the hourly wage for each category by the number of jobs to be created or retained within each job category, (2) adding together the resulting weighted wage totals; and (3) dividing the grand total by the total number of jobs to be created or retained by the proposed project.~~

~~4. Please provide the most recent average hourly general manufacturing wage for the Metropolitan Statistical Area:~~
~~_____~~

4. Workforce and Economic Development (15 points maximum) (Section 5370(c) of CDLAC Regulations)

- Welfare-to-Work Plan (5 points)

To earn points in this subcategory, the Applicant must submit a letter or other documentation from a local governmental agency, educational agency, or non-profit organization evidencing the Project Sponsor's current or planned participation in a Welfare-to-Work plan. The letter or documentation, at a minimum, should include the manner and extent of the Project Sponsor's participation in a Welfare-to-Work Plan. (Attachment "L")

- Workforce Training (5 points)

To earn points in this subcategory, the Applicant must submit copies of official documentation of its current or pending participation in one of the following worker training programs: the state's Employment Training Panel; the Employment development Department's local Workforce Investment Act programs; the California Department of Industrial Relation's Apprenticeship Program; and, workforce training programs offered by community colleges, universities, adult schools, Regional Occupation Programs, and private training agencies and approved by the state's Bureau for Private Postsecondary and Vocational Education . Official documentation shall include: (1) a copy of an executed contract between the Borrower and/or User and the provider; or (2) a formal letter from the provider addressed to the Borrower and/or User acknowledging the Borrower and/or User's current or pending participation in the program. (Attachment "L")

- Exports Outside California (5 points maximum)

To qualify for points in this subcategory, an officer or owner of the Borrower and/or User must certify in writing that it exports, or in the case of the construction of a new manufacturing facility at a new Project site, anticipates it will export, as part of its business plan (Attachment "L"):

- Up to 20 percent of its products manufactured at the Project site (2 points)
- Up to 30 percent of its products manufactured at the Project site (3 points)
- More than 30 of its products manufactured at the Project site (5 points)

~~5. Welfare to Work Plan (See Section 5370(c) of CDLAC Regulations)~~

~~— Attach (**Attachment "L"**) a letter or other documentation from a local governmental agency, educational agency, or non-profit organization evidencing the Project Sponsor's current or planned participation in a Welfare to Work plan. The letter or documentation, at a minimum, should include the manner and extent of the Project Sponsor's participation in a Welfare to Work Plan.~~

~~6.5~~ Payment of Employee and Dependent Medical, Dental, Vision, and ~~Child Care~~ Retirement Costs (Section 5370(d) of CDLAC Regulations)

Medical, Vision, and Dental Benefits (15 points maximum): Attach information documenting the average monthly payment of the Project Sponsor towards the cost of employee and dependent medical, vision, and dental benefits. The documentation must include the following:

- A letter or statement (**Attachment “M1”**. If more than one, label each attachment in sequential order as “**M-1-1**”, “**M-1-2**” etc.) from each of the Project Sponsor’s medical, vision, and dental benefits provider(s) certifying the total amount paid by the Project Sponsor for each type of benefit; and
- A completed Small-Issue Industrial Development Bond Health Benefits Worksheet (**Attachment “M2”** provided by CDLAC and attached to the Application) from the Project Sponsor showing the total net aggregate amount paid towards the provision of these benefits (resulting from adding together the total net dollar amount for each benefit provided) divided by the total number of employees participating in the plan(s), and the resulting average dollar amount of coverage per employee. Points are awarded as follows:
 - The Borrower or User contributes an average of \$330 or more per month toward the cost of the medical, dental and vision benefits for each participating employee and dependents of the employee. (15 points)
 - The Borrower or User contributes an average of \$220 to \$329 per month toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee. (10 points)
 - The Borrower or User contributes an average of \$110 to \$219 per month, toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee. (5 points)

Retirement Benefits (5 points maximum)

To qualify for points in this category, the Applicant must submit documentation (Attachment M2) evidencing the Borrower’s or User’s contributions to an employer-sponsored defined benefits retirement plan, an employer-sponsored defined contribution plan, or other retirement savings account for each participating employee. Additionally, an officer of the Borrower or User must certify that the company will offer such retirement benefits to employees hired in accordance with representations made with respect to the Job Creation category (5 points).

7. Weighted average hourly wage (10 points maximum) (Section 5370(e) of CDLAC Regulations)

Using **Attachment “K”**, calculate the average hourly wage for all positions to be created or retained by the project. The average hourly wage will be determined by (1) multiplying the hourly wage for each category by the number of jobs to be created or retained within each job category, (2) adding together the resulting weighted wage totals, and then (3) dividing the grand total by the total number of jobs to be created or retained by the proposed project. This weighted average hourly wage is then compared to the average manufacturing wage for the closest MSA listed by the BLS. The amount is based on the Bureau of Labor Statistics Series Code obtained from the Bureau of Labor Statistics website no more than 30 days prior to the application deadline. The manufacturing wage data is available on the Bureau of Labor Statistics website (<http://www.bls.gov/>).

- One hundred twenty-five percent (125%) or more of the Manufacturing Wage (10 points);
- One hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Manufacturing Wage (6 points); or
- One hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Manufacturing Wage (3 points).

Provide the most recent average hourly general manufacturing wage for the Metropolitan Statistical Area obtained from the Bureau of Labor Statistics: _____

7. 8. ~~Land Use/Energy Efficiency~~ Environmental Stewardship (27 point Maximum) (Section 5370(f) of CDLAC Regulations)

- Land Use

Applications will be evaluated based on the information provided in Attachment “F” and “H” required by Items #3 and #5 in PART IV of this Application.

- Land Use (3 points)

To qualify for points in this subcategory, Projects must involve the reuse of (a) vacant or abandoned buildings or (b) vacant or abandoned land with developed infrastructure, excluding land where the immediate prior use was agricultural, open space or other similar use.

Applications will be evaluated based on the information provided in Attachments F and H required by Items #3 and #5 in PART IV of this Application.

- Public Transit Corridor/Transportation System Management Plan

Submit one of the following:

- If the proposed Project is sited within a Public Transit Corridor as defined in Section 42 of the CDLAC Regulations, attach (~~Attachment “N”~~) a map demonstrating that the proposed project is within a Public Transit Corridor; or
- If, at the time of application the Project Sponsor has an adopted transportation management plan, attach (~~Attachment “N”~~) a narrative of the plan. The narrative, at a minimum, should include the number of employees participating in the plan, an estimation of the total driving miles saved through the plan, and the participation of local transportation/congestion management agencies in designing the plan.

- Public Transit Corridor/Transportation System Management Plan (4 points maximum)

To qualify for points in this subcategory, Projects must be:

- located within a ¼-mile of a regular route stop within a Public Transit Corridor and the Borrower or User provides written evidence of offering public transit subsidies for employees at the Project site. (4 points); or,
- in areas where there is no public transportation system, the Borrower or User has an adopted transportation system management plan. (3 points).

Submit Attachment “N” to qualify for points under one of the following:

- If the proposed Project is sited within a Public Transit Corridor as defined in Section 2 of the CDLAC Procedures, attach (**Attachment N**) a detailed, scale-for-distance map demonstrating that the proposed project is within a Public Transit Corridor; or
 - If, at the time of application the Project Sponsor has an adopted transportation management plan, submit a narrative of the plan. The narrative, at a minimum, should include the number of employees participating in the plan, an estimation of the total driving miles saved through the plan, and the participation of local transportation/congestion management agencies in designing the plan.
- Energy Efficiency and Renewable Energy (10 points maximum) (Section 5370 h of CDLAC Regulations)

~~If the proposed Project will utilize designs, materials, or techniques to reduce energy usage, attach (**Attachment “O”**) a letter from a utility company, energy efficiency consultant or equipment manufacturer certifying that such designs, materials, or techniques will result in energy savings of at least 15% on the part of the Project Sponsor when compared to either of the following benchmarks:~~

- ~~For construction or rehabilitation, the most recent California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; or~~
 - ~~For equipment to be purchased and installed that will replace existing equipment, the current per energy unit output of equipment currently in use by the Project Sponsor.~~
 - ~~For types of equipment to be purchased and installed that are currently not in use by the Project Sponsor or user, a commonly accepted industry efficiency standard.~~
- Points will be awarded for Projects that utilize designs, materials or techniques to reduce energy use by at least fifteen (15 percent) compared to the following benchmarks: (1) for building construction or rehabilitation, the most recent California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; and (2) for equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Borrower and/or User. The Applicant must submit a completed Attachment “O” along with documentation, which must be either a utility company letter confirming the projected energy savings, or a written certification of projected energy savings from a **Certified Energy Plans Examiner (CEPE) or Certified Energy Analyst (CEA).** (5 points)

- Points will be awarded for Projects that involve the installation and use of renewable energy (as defined under California Public Resources Code section 26003) equipment to power the production process. The Borrower and/or User must provide written documentation from its utility company which specifies the installation or planned installation of the renewable energy equipment. (5 points) (Attachment “O”)
- Manufacturer of Certified Environmentally Preferable Products (5 points maximum)

Points will be awarded to projects for which bond proceeds will be used to construct U.S. Green Building Council (USGBC) LEED-certified facilities, or to make improvements to existing facilities that will qualify it for a LEED-certification. The Borrower or User must provide either (1) official documentation of its registration and application (including evidence of payment of the registration and application fees) with the USGBC to obtain LEED certification, and provide evidence of progress in obtaining LEED design credits in cases where the project involves the construction of a new facility or improvements to an existing facility and construction or improvements have not begun or are not complete at the time of application for IDB financing, (2) official documentation of receipt of either the Silver, Gold or Platinum LEED Certification in cases where construction or improvements and the certification process are completed, or (3) official documentation of the receipt, within two years prior to the submission of the application for IDB financing, of either the Silver, Gold or Platinum LEED Certification under LEED’s Existing Building: Operations & Maintenance (EBOM) program. (5 Points) (Attachment “O”)
- U.S. Green Building Council (USGBC) LEED-Certified Manufacturing Facility (5 points maximum)
Points will be awarded to Projects which produce or will produce environmentally preferable products in accordance with California Public Contract Code section 12400 et seq. Qualifying products must have two or more environmentally preferable attributes, as certified by: (1) an American National Standards Institute (ANSI) Accredited Product Certification Body; (2) a widely-recognized and reputable organization accredited as a certifier by an ANSI Accredited Product Certification Body; (3) a standards developing organization recognized by the International Standards Organization (ISO); (4) a widely-recognized and reputable organization accredited as a certifier by an ISO-recognized standards developing organization; and/or (5) an official governmental certification organization. In all cases, the certification of the environmentally preferable products must be made by a third-party certifier which fits into one or more of the above five categories. The Borrower or User must provide the current, official documentation of the certification and the percentage of the project’s overall output that is comprised of the certified products. In addition, the Borrower or User shall certify in writing that any environmental attribute claims they make concerning their products and services are consistent with the Federal Trade Commission’s Guidelines for the Use of Environmental Marketing Terms (5 points) (Attachment “O”)

8. Leverage (5 points maximum) (Section 5370(g) of CDLAC Regulations)

Applications will be evaluated based on the information provided in Attachment “D” required by Item #12 in PART II of this Application.

To qualify for points in this category, the Applicant must demonstrate that the financing of the project will include Taxable Debt and/or private funds such that the Taxable Debt and/or private funds will supplement the use of tax-exempt bond financing.

Points will be awarded in this category under one of the following scenarios:

- Greater than twenty percent (20 percent) of total project costs will be paid from one or more of these other sources of financing. (5 points)
- Greater than ten percent (10 percent) and up to twenty percent (20 percent) of total project costs will be paid from one or more of these other sources of financing. (3 points)

Applications will be evaluated based on the information provided in **Attachment D.**

PART VII – LEGAL STATUS OF PROJECT SPONSOR AND DEVELOPER

If a separate sheet is used to respond to the following questions, the sheet shall be labeled **Attachment ~~XP~~**.

1. Financial Viability

Disclose any legal or regulatory action or investigation that may have a material impact on the financial viability of the project or the Project Sponsor and Developer. The disclosure should be limited to actions or investigations in which the applicant or the applicant's parent, subsidiary, or affiliate involved in the management, operation, or development of the project has been named a party.

Response (Not Applicable is an unacceptable response):

2. Fraud, Corruption, or Serious Harm

Disclose any legal or regulatory action or investigation involving fraud or corruption, or health and safety where there are allegations of serious harm to employees, the public, or the environment. The disclosure should be limited to actions or investigations in which the Project Sponsor and Developer or the Project Sponsor's and Developer's current board member (except for volunteer board members of non-profit entities), partner, limited liability corporation member, senior officer, or senior management personnel has been named a defendant within the past ten years.

Response (Not Applicable is an unacceptable response):

Disclosures should include civil or criminal cases filed in state or federal court; civil or criminal investigations by local, state, or federal law enforcement authorities; and enforcement proceedings or investigations by local, state or federal regulatory agencies. The information provided must include relevant dates, the nature of the allegation(s), charters, complaint or filing, and the outcome. For a publicly-traded company, the relevant sections of the company's 10K, 8K, and 10Q most recently filed with the Securities and Exchange Commission may be attached in response to question #1. With respect to a response for question #2, previous 10K, 8K, and 10Q filings of the company may be attached if applicable.

PART VIII – SELLER OF PROPERTY INFORMATION

This PART is to be completed if bond proceeds will finance the acquisition of property.

1. Name of Property Seller:
Business Street Address:

City:

State:

Zip code:

Telephone number: ()
2. Principals, business addresses and telephone numbers of each partner comprising the Seller:
3. When is sale of property expected to close escrow?

SIIDBP APPLICATION DOCUMENTS CHECKLIST

This checklist is provided to ensure that a completed application package is filed ~~with CDLAC and CIDFAC~~. If an attachment does not apply, please write N/A in the space provided.

Your application package must contain the following:

Check Box	Document Description	Attachment Name
	\$ 600 <u>1,200</u> initial filing fee made payable to CDLAC (See Section 5033(b)(2) of CDLAC Regulations)	N/A
	<u>CIDFAC APPLICANTS ONLY:</u> \$1,250 application fee made payable to CIDFAC	N/A
	<u>Signed</u> Performance Deposit Certification Form (See Section 5033(b)(1) of CDLAC Regulations)	N/A
	Two (2) Completed and signed application forms	N/A
	Adopted Inducement Resolution (See Section 5033(54) of CDLAC Regulations.)	A
	Evidence of TEFRA hearing (either adopted resolution or certification) (See Section 5033(65) of CDLAC Regulations.)	B
	Evidence of Credit Enhancement or Bond Purchase <u>Bond Sale Structure and Commitment</u> (See <u>Chapter 1, Article 6</u> Section 5061 of CDLAC Regulations.)	C
	Evidence of Taxable Debt (Section 5370(g) of CDLAC Regulations)	D
	<u>CIDFAC APPLICANTS ONLY:</u> Financial Statements for the past three years	E
	Description of current improvements	F
	Evidence of ownership	G
	Description of proposed Project	H
	<u>CIDFAC APPLICANTS ONLY:</u> Evidence of relocation documentation	I
	Evidence of permits and approvals documentation (Section 5370 <u>5369</u> of CDLAC Regulations)	J
	Job Creation / Job Retention (Section 5370(b)(4) of CDLAC Regulations)	K

	Evidence of welfare to work plan participation <u>Workforce and Economic Development</u> (Section 5370(c) of CDLAC Regulations)	L
	Evidence of payment of employee benefits (including the Small-Issue Industrial Development Project Health Care Benefits Worksheet) (Section 5370(d) of CDLAC Regulations)	M1, M2
	Evidence of Public Transit Corridor/Transportation Plan (Section 5370(f)(<u>2</u>) of CDLAC Regulations)	N
	Evidence of Energy Efficiency <u>and Renewable Energy</u> (Section 5370(h)(<u>f</u>) of CDLAC Procedure)	O
	Legal Status of Applicant and Project Sponsor	P
	Two (2) duplicate copies of the Application with Attachments [NOTE: Any subsequent mailings of additional application materials should be in <u>duplicate</u> .]	DUPLICAT E

**PERFORMANCE DEPOSIT CERTIFICATION FORM
FOR AN APPLICATION FOR AN ALLOCATION OF QUALIFIED PRIVATE ACTIVITY BONDS**

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE (CDLAC)

915 Capitol Mall, Room 311
Sacramento, CA 95814
(916) 653-3255

**CERTIFICATION OF THE _____ (Applicant)
REGARDING AN APPLICATION FOR QUALIFIED PRIVATE ACTIVITY BOND ALLOCATION**

In connection with the following Qualified Private Activity Bond Application:

APPLICANT:

AMOUNT OF ALLOCATION REQUESTED: \$

PROJECT NAME/PROJECT TYPE:

the undersigned officer of the _____ (Applicant) hereby certifies as follows:

6. I, _____ (Name), am the _____ (Title) of the _____ (Applicant), and am duly authorized to make the deposit required below.
7. The _____ (Applicant) has collected and has placed on deposit in an account in a financial institution \$_____, _____ dollars (write out dollar amount in words), which **equals one half of one percent** of the amount of the Qualified Private Activity Bond Allocation being requested, **not to exceed \$100,000**.
8. The deposit will be held until receipt of a written notification from the California Debt Limit Allocation Committee that the deposit is authorized to be released or forfeited, in whole or in part, pursuant to Article 5 of Chapter 1 of the Committee's Regulations.
9. To the extent that any portion of the deposit is forfeited, the Applicant agrees to send the required amount in a check made payable to "The California Debt Limit Allocation Committee." Such check shall be mailed to the Committee at the address noted above immediately upon receipt of the written notification from the Committee.
10. The undersigned has read the Regulations of the California Debt Limit Allocation Committee and understands that if a Qualified Private Activity Bond Allocation is not used for the purpose for which it was granted, the performance deposit must be forfeited to the Committee.

Signature of Senior Official

Print or Type Name

Title

Date

6. Each Applicant for a Qualified Private Activity Bond Allocation must submit evidence to the Committee that it has on deposit in an account in a financial institution an amount **equal to one half of one percent** of the amount of Qualified Private Activity Bond Allocation being requested, **not to exceed \$100,000**. Applicants are advised to read Article 5 of Chapter 1 of the Committee's Regulations.
7. The Performance Deposit Certification Form (see other side) must be filed with the Committee in conjunction with the filing of an Application and by the Application Deadline.
8. The Committee will authorize release or require forfeiture of the deposit as follows:
 - a. If the Committee provides no Allocation, or grants an amount lower than requested by the Applicant, the Committee will authorize release of the deposit or release of a pro rata amount of the deposit so that only one-half of one percent (0.5%) of the Allocation granted is on deposit;
 - b. If the Applicant uses only a portion of the Allocation granted to issue bonds (or convert the Allocation to mortgage credit certificate authority), the Committee will authorize the release of the deposit in accordance with the conditions imposed at the time of Allocation. The Committee will approve the Allocation with the deposit fully refundable if 80% or more of the Allocation is used to issue bonds prior to the expiration date. If less than 80% of the Allocation is used to issue bonds prior to the expiration date, the refundable performance deposit will be pro-rated. For Mortgage Credit Certificate Programs, if 80% or more of the Allocation is converted to mortgage credit certificate authority and at least one mortgage credit certificate is issued prior to the expiration date, the performance deposit will be refunded in full. If less than 80% of the Allocation is converted to mortgage credit certificate authority and at least one mortgage credit certificate is issued prior to the expiration date, the refundable performance deposit will be pro-rated.
 - c. If the Applicant does not use any of the Allocation to issue bonds prior to the expiration date (or convert the Allocation to mortgage credit certificate authority and issue at least one mortgage credit certificate prior to the expiration date), the entire deposit will be forfeited; and
 - d. If the Applicant or the Project Sponsor withdraws the Application in writing prior to the Committee's consideration of the Application, the performance deposit shall be automatically released and no written authorization from the Committee shall be necessary.
9. If the Applicant forfeits all or a part of a deposit pursuant to Article 5 of Chapter 1 of the Committee's Regulations, the Applicant shall send the required amount to the Committee in a check made payable to "The California Debt Limit Allocation Committee". Amounts received will be deposited in the Committee's Fund.
10. Project Sponsors bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the Committee Resolution.

ATTACHMENT J
THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
VERIFICATION OF ZONING AND LOCAL APPROVALS

PROJECT NAME:

PROJECT ADDRESS:

ASSESSOR PARCEL NUMBER (S):

PLANNING FILE NUMBER:

PROJECT CITY:

The entire parcel upon which the above-described project will be located is zoned _____, which allows for industrial development of no greater than _____ square feet per acre or floor area ratio (FAR). Please indicate which measure is being used.

1. Does the project currently comply with all applicable local land use and zoning ordinances (If no, please explain)?

2. Please describe the current zoning allowed for the site.

3. Has the project sponsor (developer) obtained all local approvals (other than a building permit) necessary to begin construction (If no, please explain)?

4. Are there any outstanding approvals required by the Planning Commission, City Council, or Board of Supervisors for land use entitlements (If yes, please explain)?

5. Are you aware of any state approvals which may be required (If yes, please explain)?

DATED: _____

STATEMENT COMPLETED BY: _____
(Please Print Name of Local Agency Representative)

SIGNATURE OF LOCAL AGENCY REPRESENTATIVE: _____

TITLE: _____

TELEPHONE: _____ FAX: _____ E-MAIL: _____

ATTACHMENT M2

**SMALL-ISSUE INDUSTRIAL DEVELOPMENT BOND PROJECT HEALTH CARE BENEFITS
WORKSHEET**

Part I

Medical

Gross monthly medical premiums made by Project
Sponsor at the time of Application: \$ _____

Less

Total monthly medical premiums made by all employees
to health care premium at the time of Application: \$ _____

Equals

Net monthly medical premiums made by Project
Sponsor at the time of Application: \$ _____

Vision

Gross monthly vision premiums made by Project
Sponsor at the time of Application: \$ _____

Less

Total monthly vision premiums made by all employees
to vision premium at the time of Application: \$ _____

Equals

Net monthly vision premiums made by Project
Sponsor at the time of Application: \$ _____

Dental

Gross monthly dental premiums made by Project
Sponsor at the time of Application: \$ _____

Less

Total monthly dental premiums made by all employees
to dental premium at the time of Application: \$ _____

Equals

Net monthly dental premiums made by Project
Sponsor at the time of Application: \$ _____

ATTACHMENT M2

**SMALL-ISSUE INDUSTRIAL DEVELOPMENT BOND PROJECT HEALTH CARE BENEFITS
WORKSHEET**

Part II

Total Monthly Net Medical, Dental, and Vision Costs:

Medical \$ _____

Vision \$ _____

Dental \$ _____

Total \$ _____

Part III

Total monthly net premium/costs: \$ _____

divided by

Total number of employees participating in plan: _____

equals

Total monthly net medical, dental, and vision costs paid per employee: \$ _____

Part IV

Does the Company offer Retirement Benefits to its employees (Yes, No, or N/A)?

Total Retirement Benefits:

☐ Employee-Sponsored defined benefits retirement plan

☐ Employee-Sponsored defined contribution plan

☐ Other (please specify)

Total monthly retirement contribution:

Total # of participating employees:

By completing the preceding section of the worksheet, the Borrower and/or User confirm that it will offer the same retirement benefits to employees hired in accordance with representations made with respect to the Job Creation category (Attachment "K").

ATTACHMENT B
PUBLIC COMMENT MATRIX

Written public comments were received during the 30-day Public Comment Period. Public hearings were held on October 4, 2016 in Oakland, October 5, 2016 in San Diego, October 6, 2016 in Los Angeles and October 7, 2016 in Sacramento. The comments received at each of the public hearings and the written comments received during the Public Comment Period are set forth below.

PUBLIC COMMENTS RECEIVED DURING PUBLIC HEARINGS AND 30-DAY COMMENT PERIOD
CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

November 16, 2016

Written public comments were received during the 30-day Public Comment Period, September 26, 2016 through October 26, 2016. Public hearings were held on October 4, 2016 in Oakland, October 5, 2016 in San Diego, October 6, 2016 in Los Angeles and October 7, 2016 in Sacramento. The comments received at each of the public hearings and the written comments received during the Public Comment Period are set forth below.

Item #	Section	Summary of Public Comments	Commentator	Staff Comments/Recommendations	Accept/Reject (A/R)
1	5031. Eligible Applicants. (a) The following types of entities may file an Application: state or local governmental agency, joint powers authority (JPA)...	Eden Housing suggests limiting Issuer fees to correspond with the outstanding principal amount, rather than with the initial principal amount.	Andy Madeira, Sr. VP Real Estate Development, Eden Housing	Regarding limiting Issuer fees, the comment is beyond the scope of the proposed revisions.	R
2	5031. Eligible Applicants. (c) Applicants must submit written Bond Issuance and Post Issuance Compliance Policies...	Eden Housing supports requiring all active and non-active issuers to establish and have in place issuance and compliance policies.	Andy Madeira, Sr. VP Real Estate Development, Eden Housing	Staff concurs with the need for policies.	A
3	5144. Annual Applicant Public Benefits and Ongoing Compliance Self Certification. (b) Sponsors will be required to verify tenant income...	Eden Housing is concerned this will increase project costs.	Andy Madeira, Sr. VP Real Estate Development, Eden Housing	It is not CDLAC's intent that these procedures be more burdensome than TCAC's. We revised 5144(b) to reflect a three-year reporting cycle.	A
4	5144. Annual Applicant Public Benefits and Ongoing Compliance Self Certification. (c) Compliance	Eden Housing is concerned this will increase Issuer fees and threaten project viability. Recommends	Andy Madeira, Sr. VP Real Estate Development	It is not CDLAC's intent to increase Issuer Fees. Many Issuers already ensure this level of compliance and CDLAC is attempting to create a baseline. In	A

	with the income and rental requirements...must be demonstrated by the Applicant's initial review of 20% of all...files...and subsequent review every three years of 20% of all...files.	Issuers rely on TCAC or sponsor to verify compliance.	, Eden Housing	<p>response to concerns that this process might create burden for some Issuers, the reporting cycle is being reduced from an annual cycle to a three-year cycle.</p> <p>CDLAC considered the idea of TCAC performing compliance on CDLAC's behalf but, given the different state laws that impact the occupancy assumptions that certain issuers are legally required to use when establishing appropriate rents, TCAC indicated they did not have the capacity to oversee the additional review.</p> <p>Additionally, all Issuers collect post issuance compliance fees specifically for the purpose of ensuring compliance. If TCAC were handling all post issuance compliance matters, there would be less of a rationale to collect a fee.</p>	
5	<p>5194. Project Costs.</p> <p>Applications...where total project costs exceed \$500,000 \$400,000 per unit...must include an explanation</p>	Eden Housing supports increasing the limit to \$500,000, as this will ease the required reporting/justification requirement for high-cost projects. Eden recommends excluding acquisition costs from the calculation and/or adjusting the threshold limit more regularly to keep pace with	Andy Madeira, Sr. VP Real Estate Development, Eden Housing	CDLAC is committed to reviewing the thresholds more regularly to avoid unnecessary reporting.	A

		inflation and construction costs.			
6	<p>5233. Allocation Limits. Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools...</p>	<p>Eden Housing is concerned that allocation limits will result in an overall increase in the cost of funds for projects due to the higher taxable rates on the non-exempt portions of the financing. If CDLAC adopts allocation limits, Eden Housing requests limits be indexed to inflation, with Hold Harmless rules in the event of deflation.</p>	<p>Andy Madeira, Sr. VP Real Estate Development , Eden Housing</p>	<p>1. The limits are being put in place to address high costs, not specifically to limit allocation to projects. Developers are required to use tax-exempt bonds in the amount of 50% of their total depreciable projects costs plus land. Currently, developers are utilizing tax-exempt bonds in excess of what is needed to meet the 50% test to bridge equity and other financing introduced into the deal at after construction loan closing. At the moment, there is a nominal difference between tax exempt and taxable financing rates and there has been a plentitude of allocation. In the future, CDLAC is likely to move toward full resource utilization and a practice of using tax exempt bonds in excess of what is required would deprive another project of receiving</p>	R

				<p>an allocation and the accompanying 4% tax credits. It is true that in the future taxable financing would need to replace tax-exempt financing in certain high costs projects if the need for debt was in excess of the 50% test parameters, but this would make way for more units of affordable housing to be produced.</p> <p>2. CDLAC is committed to review limits regularly to ensure they remain reasonable and appropriate.</p>	
7	<p>5255. Application Requirements. Projects requesting an assignment and assumption of an existing HAP Agreement must have submitted their... application to HUD by the CDLAC application date...</p>	Eden Housing is concerned that HUD may be unable to commit in writing within a specified timeframe.	Andy Madeira, Sr. VP Real Estate Development , Eden Housing	CDLAC is committed to continuing to work with HUD. However, given the recent HUD reorganization, CDLAC is withdrawing the requirement to include a HUD Asset Management Acknowledgement Letter when submitting an application to CDLAC.	A
8	<p>5144. Annual Applicant Public Benefits and On-going Compliance Self Certification. (a) All Projects that receive an Allocation and are within an existing regulatory period and/or compliance period shall be monitored for</p>	IBank recommends delineating an ending timeframe for annual reporting.	Teveia R. Barnes, Executive Director, IBank	CDLAC agrees that clarity on the reporting timeframe is reasonable. We have reflected the appropriate non-QRRP and QRRP timeframes as suggested.	A

	compliance with the applicable terms and conditions of the Committee Resolution by the Applicant (Issuer) and CDLAC.				
9	5144. Annual Applicant Public Benefits and On-going Compliance Self Certification. (b) No less than <u>every three years after the project is completed</u> annually, the Sponsor must collect and retain...income and verification documentation...	IBank recommends adding verbiage about how long the reporting period will last.	Teveia R. Barnes, Executive Director, IBank	CDLAC addressed this comment by establishing a definition for Regulatory Period and/or Compliance Period	A
10	5145. Certification of Compliance. (b) Applicant shall collect from the Project Sponsor...the ...Certification of Compliance II... Additionally, Applicants shall collect from the Project Sponsor...the... Certificate of Completion...These requirements shall be enforceable by the Committee through an action for specific	IBank recommends replacing “of” with “against.”	Teveia R. Barnes, Executive Director, IBank	CDLAC agrees with this recommended change. The intent was to provide CDLAC the tools to ensure compliance.	A

	performance or other available remedy of <u>against the Project Sponsor</u>				
11	5146. Disqualification. (b) Multiple or repeated failures to use committed public subsidies or private activity Bond allocations within applicable deadlines, or to provide committed physical amenities or services...	IBank suggests adding the word “material” before “failures.”	Teveia R. Barnes, Executive Director, IBank	CDLAC appreciates this recommendation, but does not wish to introduce the concept of materiality into this section at this time.	R
12	5146. Disqualification. (c) Providing false information in connection with an Application...	IBank suggests inserting the word “materially” before “false.”	Teveia R. Barnes, Executive Director, IBank	CDLAC appreciates this recommendation, but does not wish to introduce the concept of materiality into this section at this time. The risk of disqualifying an application for immaterial false information, such as a mistake, is limited and can be remedied through communication with applicants or by committee decision.	R
13	Chapter 6. Small-Issue Industrial Development Bond Program. Article 2. Applications. 5361. Allocations to CIDFAC. & Article 4. Small Business Program. 5380. Allocations to CIDFAC.	IBank recommends deleting any reference to CIEDB in these two sections.	Teveia R. Barnes, Executive Director, IBank	The comment is outside the scope of the current proposed regulation revision. It does not address a specific proposed revision. CDLAC will address these changes during the upcoming effort to revise the Industrial Development Bond Program.	R

14	Certification of Compliance Forms	IBank asks for clarification about why there is a need to updated a resolution upon certain events occurring including a change in borrower, change in issuer, change of project name.	Teveia R. Barnes, Executive Director, IBank	The Compliance Certificate II will serve as the official record of any change in issuer, project name, or borrower entity moving forward. There is no need to amend the resolutions. The forms have been updated accordingly.	A
15	5050. Performance Deposit Requirements. Applications for Bonds shall include evidence of a performance deposit... made payable to the Applicant.	Westhoff, Cone & Holmstedt argues that regulations should allow a signature or statement from the Project Sponsor's Bank that such funds are available to meet the Deposit Requirement.	Mark Holmstedt, Westhoff, Cone & Holmstedt	CDLAC agrees that providing additional ways for applicants to provide evidence of the posting of a performance deposits may be beneficial to the program. For example, we are considering applicants being able to provide evidence through a letter of credit issued by a satisfactorily rated commercial bank and in which CDLAC is named as beneficiary. We are concerned that the WCH proposal, while stating that funds are available, does not specify that those funds are reserved for the benefit of CDLAC.	A
16	5031. Eligible Applicants. (c) Applicants must submit written Bond Issuance and Post Issuance Compliance Policies...	LifeSTEPS supports requiring bond issuers to develop compliance procedures, conduct inspections, and certify property and resident service compliance on a regular basis. They agree that by issuers monitoring property owners and property management, we can ensure the	Craig A. Gillett, President, LifeSTEPS	CDLAC concurs with LifeSTEPS' comments.	A

		integrity of affordable housing projects and resident services.			
	5031. Eligible Applicants. (c) Applicants must submit written Bond Issuance and Post Issuance Compliance Policies...	Ms. Southorn expressed concern that after-school programs at some projects are being discontinued at Resyndication.	Ms. Beth Southorn, Executive Director, LifeSTEPS	CDLAC appreciates Ms. Southorn's comments and believes written policies will reduce the risk of programs being discontinued.	A
17	5233. Allocation Limits. Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools...	McCormack Baron Salazar comments that placing limits will prevent more affordable housing being built in cities that need it most. They suggest carve-outs for certain project types or bonuses to the caps, such as for large bedrooms.	Daniela Greville, Vice President, McCormack Baron Salazar	<ol style="list-style-type: none"> 1. CDLAC is concerned that the high cost of projects has the potential to draw political attention that might affect federal or state support of the tax credit and bond programs. 2. These limits are being put into place to provide clarity on project and scope limitations and to provide the development community a tool to leverage cost-reducing concessions from local governments. 3. The allocation limits have already been tiered according to bedroom size in 	R

				<p>acknowledgement that large family units cost more than smaller units.</p> <p>4. Providing other forms of bonuses or caps, will be counterproductive to the effort to reduce costs in very high cost neighborhoods.</p> <p>5. The proposed limits would foster more equitable geographic distribution of allocation and, accordingly, more equitable development of affordable housing throughout the state during periods when CDLAC resources are fully utilized and/or competitive.</p> <p>6. CDLAC is committed to review limits regularly to ensure they remain reasonable and appropriate.</p>	
18	<p>5033(b)(5)(C). Minimum Application Requirements.</p> <p>An applicant must be a member of If the Applicant is a JPA, the jurisdiction issuing the TEFRA Resolution must be a member of the Applicant the jurisdiction issuing the TEFRA Resolution at the</p>	<p>Jones Hall, A Professional Law Corporation, recommends providing some flexibility in the JPA membership language to allow a local jurisdiction time to sign a JPA agreement, provided authorization to join the JPA occurs</p>	<p>Ronald E. Lee, Shareholder, Jones Hall, A Professional Law Corporation</p>	<p>CDLAC agrees with providing flexibility with regard to the timing of the signature of the JPA agreement knowing that the approval to become a member is in place.</p>	A

	time the Resolution is adopted or must have approved becoming a member of the Applicant at or prior to the time the Resolution is adopted.	by the TEFRA authorization date.			
19	5233. Allocation Limits. Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools...	The California Housing Partnership Corporation comments that the Executive Director should have the ability to waive the limits for projects that are small, in high opportunities, high cost areas, or severely distressed project serving ELI residents.	Richard Mandel, Director of Financial Consulting, California Housing Partnership Corporation	<ol style="list-style-type: none"> 1. CDLAC is concerned that the high cost of projects has the potential to draw political attention that might affect federal or state support of the tax credit and bond programs 2. These limits are being put into place to provide clarity on project and scope limitations and to provide the development community a tool to leverage cost-reducing concessions from local governments. 3. The allocation limits have already been tiered according to bedroom size in acknowledgement that large family units cost more than smaller units. 4. Providing the Executive Director the ability to waive these limits will be counterproductive to the effort to reduce 	R

				<p>costs in very high cost neighborhoods.</p> <p>5. The proposed limits would foster more equitable geographic distribution of allocation and, accordingly, more equitable development of affordable housing throughout the state during periods when CDLAC resources are fully utilized and/or competitive.</p> <p>6. CDLAC is committed to review limits regularly to ensure they remain reasonable and appropriate.</p>	
20	<p>5255. Application Requirements. Projects requesting an assignment and assumption of an existing HAP Agreement must have submitted their... application to HUD by the CDLAC application date...</p>	<p>The California Housing Partnership Corporation expressed concern with regards to coordinating the timing of submitting CDLAC and HUD applications.</p>	<p>Richard Mandel, Director of Financial Consulting, California Housing Partnership Corporation</p>	<p>CDLAC is committed to continuing to work with HUD. However, given the recent HUD reorganization, CDLAC is withdrawing the requirement to include a HUD Asset Management Acknowledgement Letter when submitting an application to CDLAC.</p>	A
21	<p>5144. Annual Applicant Public Benefits and On-going Compliance Self Certification.</p>	<p>USA Properties Fund expressed concern that monitoring and inspections may be duplicative between TCAC's and CDLAC's requirements.</p>	<p>Darren Bobrowsky, SVP, USA Properties Fund</p>	<p>It is not CDLAC's intent that these procedures be more burdensome than TCAC's. CDLAC has revised 5144 (b) to reflect a three-year reporting cycle. Additionally, CDLAC has clarified in 5144(c) that the income verification documentation will apply to</p>	A

				<p>an occupant's initial occupancy.</p> <p>CDLAC considered the idea of TCAC performing compliance on CDLAC's behalf but given the different state laws that impact the occupancy assumptions that certain issuers are legally required to use when establishing appropriate rents, TCAC indicated they did not have the capacity to oversee the additional review. Additionally, all Issuers collect post-issuance compliance fees specifically for the purpose of ensuring compliance. If TCAC were handling all post issuance compliance matters, there would be less of a rationale to collect a fee.</p>	
22	<p>5200(e). Minimum Requirements. The study must be a written statement certified by a third party market analyst <u>that includes a current rent roll...</u></p>	<p>USA Properties Fund expressed concern that a third party market analyst would not be able or willing to certify a rent roll that they did not prepare.</p>	<p>Darren Bobrowsky, SVP, USA Properties Fund</p>	<p>Suggestion accepted. It was not CDLAC's intent that the rent roll be certified, only that the certified written statement would include a rent roll.</p>	A
23	<p>5233. Allocation Limits. Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools...</p>	<p>USA Properties Fund suggests that allocation limits should be lower than proposed in order to provide cost effective affordable housing.</p>	<p>Darren Bobrowsky, SVP, USA Properties Fund</p>	<p>CDLAC is trying to grapple with balancing high cost projects across very diverse regional cost environments. The limits proposed balance these policy objectives. CDLAC is committed to reevaluating these limits as often as the Committee deems necessary.</p>	R

24	5233. Allocation Limits. Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools...	City and County of San Francisco understands the purpose behind cost ceilings and recommends that language be added to account for construction industry cost increases and to allow for exemptions for specific, extraordinary circumstances, such as having less than 40 units.	Mara Blitzer, Director of Housing Development , City and County of San Francisco	CDLAC appreciates the City's support of allocation limits and is committed to reevaluating these limits as often as the Committee deems necessary. In response to concerns about escalating prices in the bay area, CDLAC has updated the allocation limits to reflect allocation limits that are based on a bond amount comprising 52.5% of the total project costs not just 50%. This provides slightly higher allocation limits allowing developers to meet the demands of the appreciating cost structure.	A
25	5144(b). Annual Applicant Public Benefits and On-going Compliance Self Certification. Sponsors will be required to utilize HUD Handbook 4350.3 to verify tenant income...	City and County of San Francisco suggests that, rather than relying on HUD standards, Sponsors be required to utilize an Issuer-approved methodology.	Mara Blitzer, Director of Housing Development , City and County of San Francisco	CDLAC supports changing the proposed language referencing HUD Handbook 4350.3 to reflect the origin of the information. Instead of referencing the HUD handbook, CDLAC will reference the TCAC publication that details the use of the HUD handbook.	A
26	5144(c). Annual Applicant Public Benefits and On-going Compliance Self Certification. For all QRRP projects receiving allocation after December 31, 2016...compliance with the income and rental requirements...must be demonstrated by the Applicants initial review of 20% of all...files...and	City and County of San Francisco supports independent verification but, to contain costs, recommend reducing requirement to 10% of files every 7 years.	Mara Blitzer, Director of Housing Development , City and County of San Francisco	It is not CDLAC's intent to increase costs. Many issuers already ensure this level of compliance and CDLAC is attempting to create a baseline. In response to concerns that this process might create burden for some issuers, the reporting cycle is being reduced from an annual cycle to a three-year cycle.	R

	subsequent review every three years of 20% of all...files..				
27	5144(d). Annual Applicant Public Benefits and On-going Compliance Self Certification. For projects absent the receipt of a TCAC reservation...will have ...compliance options which will be represented in the Committee Resolution	City and County of San Francisco supports independent verification, but not this regulation as written, as would need to procure services per City policy. Also, to contain costs, recommend reducing requirement to 10% of files every 7 years.	Mara Blitzer, Director of Housing Development , City and County of San Francisco	It is not CDLAC's intent to increase costs. Many issuers already ensure this level of compliance and CDLAC is attempting to create a baseline. In response to concerns that this process might create burden for some issuers, the reporting cycle is being reduced from an annual cycle to a three-year cycle. Approval to subcontract out the work is not needed other than in the instance of 5144(d).	R
28	5255. Application Requirements. Projects requesting an assignment and assumption of an existing HAP Agreement must have submitted their... application to HUD by the CDLAC application date and must include a HUD Asset Management Letter with the CDLAC application no later than (4) calendar	City and County of San Francisco supports improving communications between HUD and the project sponsor. However, the City recommends against expecting a letter from HUD within a tight deadline.	Mara Blitzer, Director of Housing Development , City and County of San Francisco	CDLAC is committed to continuing to work with HUD. However, given the recent HUD reorganization, CDLAC is withdrawing the requirement to include a HUD Asset Management Acknowledgement Letter when submitting an application to CDLAC.	A

	days prior to the first posting.				
29	Did not refer to any specific section of the regulations.	Ms. Shay expressed strong support of any legislation that would enhance and provide more resources for the at-risk portfolio, that would preserve HCD projects, that would preserve dilapidated housing stock, and that would preserve expiring Section 8 and rural 515 programs.	Mary Ellen Shay, Executive Director, California Association of Housing Authorities	CDLAC appreciates Ms. Shay's comments.	A
30		Documenting Ms. Lewis' comments are pending receipt of the transcript of the Los Angeles public hearing. Final update of her comments will be completed prior to the Committee meeting.	Nancy Lewis of Nancy Lewis Associates, Inc.		