

REVISED

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

December 14, 2016

Consideration of the Adoption of a Resolution Delegating Authority to the Executive Director to Grant Waivers of Forfeiture of Performance Deposit on Behalf of the Committee

(Agenda Item No. 4)

ACTION:

The Committee is authorized by the CDLAC regulations to waive performance deposit forfeiture penalties under certain circumstances. This item requests authorization for the Executive Director to waive such penalties associated with an issuance extension request if the Project Sponsor demonstrates that the need for the extension was related to the disruptions that have occurred in the equity and debt markets associated with the potential of tax reform. This is consistent with the regulation changes and policy direction supported by Tax Credit Allocation Committee (TCAC) related to this matter.

BACKGROUND:

Per the CDLAC regulations, approval of a Carryforward extension requires forfeiture of a project's performance deposit. The Committee may grant a waiver upon a satisfactory showing that: (1) the issue or event that prevented the issuance of the bonds unforeseen; and (2) the issue or event was wholly outside the control of the Applicant and Project Sponsor. A waiver request must meet both parts of the test.

It has recently come to staff's attention that the ushering in of the new President and the associated prospect of federal tax reform in 2017 is causing uncertainty and disruption in the Low Income Housing Tax Credit (LIHTC) market as well as the bond markets. The turmoil is due to the prospect of reduced marginal tax rates under the various tax reform proposals. To the extent marginal tax rates might decrease, companies have less need for tax credits or other tax-exempt investments such as tax exempt bonds and accordingly are willing to pay less than they would have if the outlook was more stable. While some investors are holding pricing and terms for projects that are closing this year, others are repricing with very steep pricing discounts. In other instances, investors are rescinding on their equity commitments and lenders are repricing debt if issuance deadlines are not met. To the extent projects have delayed closing timeframes, bond pricing that was fixed is being renegotiated to incorporate the new market conditions. In addition, projects that are not scheduled to close until after the New Year are facing significant uncertainty related to investor response.

While many Applicants and Project Sponsors are optimistic that the equity market will stabilize when tax rates and other provisions are clear (though likely with reduced pricing), it is difficult to predict what will happen to projects already in receipt of a CDLAC allocation. To both recognize this unforeseen market disruption affecting the equity and debt markets that was unforeseen and outside the control of the Applicant and Project Sponsor, and further streamline the waiver approval process related to these particular projects, staff recommends authorization for the Executive Director to waive such penalties associated with an issuance extension request if the Applicant and Project Sponsor demonstrate that the need for the extension was based on the current turmoil in the market. CDLAC will reevaluate the situation during the March 2017 round and bring forth a March 2017 recommend to the Committee for further prudent action, if necessary. The recommendation before you is consistent with the change TCAC is recommending in their current regulations.

RECOMMENDATION:

Staff recommends approval of the attached Resolution authorizing the CDLAC Executive Director to approve the waiver of certain forfeitures of performance deposit, on behalf of the Committee associated directly with the market disruptions that occurred in the tax credit and bond markets after the recent election. This Resolution will remain in effect until March 31, 2017.

Prepared by Misti Armstrong.