

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**

**July 19, 2017**

*Revised*

**Consideration and Approval of Proposed CDLAC Regulations for Submittal to the Office of Administrative Law for Emergency and Regular Rulemaking Consideration**  
**(Agenda Item No. 5)**

**ACTION:**

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

**BACKGROUND:**

CDLAC will submit, if approved by Committee, a request for emergency approval of the proposed regulation changes to the Office of Administrative Law on August 7 with an anticipated approval and adoption date of August 16.

The purpose of these regulation changes is to introduce a new program, the Qualified Public Educational Facility Bond (“QPEF”) Program, to the nine programs currently in existence for the issuance of tax-exempt private activity bonds. QPEF’s are tax-exempt private activity bonds issued to finance the construction, renovation, and furnishing of primary and secondary school facilities. This form of financing reduces the cost of financing for schools as interest earned by the lender is tax exempt. The volume cap for QPEF bonds that can be issued in California for each program year is specified in 26 USCA section 142(k). The limit for the Qualified Public Educational Facility Bond Program is calculated by multiplying the state population by \$10, and totals \$392 million for the 2017 program year.

**PROPOSED REVISIONS:**

**Forms to be Incorporated by Reference**

**“Application For an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Public Educational Facility Bond Project”**

Necessity: The form has been created to provide a method for applicants to apply to CDLAC to receive an allocation of Qualified Public Educational Facility Bond Allocation.

**“Annual Applicant Public Benefits and Ongoing Compliance Self-Certification”**

Necessity: The form requires modification for consistency with the addition of the newly proposed Qualified Educational Facility Program. The revised date of the form will be updated to 07-17-17 to ensure that only the most recent edition of the form is used for compliance verification.

**“Certification of Compliance II for Non-Qualified Residential Rental Projects”**

Necessity: The form requires modification for consistency with the addition of the newly proposed Qualified Educational Facility Program. The revised date of the form will be updated to 07-17-17 to ensure that only the most recent edition of the form is used for compliance verification.

**Chapter 1, Article 1, Section 5000. Definitions**

“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 or Qualified Public

Educational Facility 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.

Necessity: The amendment of this definition is required to ensure the regulatory agreement associated with all Qualified Public Education Facility transactions is included in the broader definition of a regulatory agreement.

“Qualified Public Educational Facility Bond Pool” means the reserve of Qualified Public Educational Facility Bonds established by the Committee for Qualified Public Educational Facilities pursuant to IRC section 142(k).

Necessity: The proposed language introduces the concept of creating a pool of resources specific to the Qualified Public Educational Facility Bond Pool for the purposes of allocating the resource.

“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), the amount of Qualified Public Educational Facility Bonds that can be issued in California for each calendar year specified by 26 USCA section 142(k), 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.

Necessity: The amendment of this definition provides clarity that the Qualified Public Educational Facility allocation to be incorporated into the definition of State Ceiling.

### **Article 3. State Ceiling Pools**

#### **Section 5020. Determination of State Ceiling Pools.**

(j) Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the Qualified Public Educational Facility Bonds State Ceiling that shall be available for allocation during the year and in each Allocation Round to the Qualified Public Educational Facility Bond Program.

Necessity: Subsection (j) is being amended to provide that CDLAC will determine the State Ceiling for and Qualified Public Educational Facility Bonds State Ceiling available for allocation during the calendar year.

~~(j)~~(k) 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.

### **Article 8. Expiration of Allocations**

#### **Section 5100. Program Expiration Dates.**

**(b)(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 Public Educational Facility Bonds, Qualified Energy Conservation Bonds and the conversion of Bonds to Mortgage Credit Certificate authority.

### **Chapter 13. Qualified Public Educational Facility Bond (QPEFB) Program**

#### **Article 1. Definitions**

**Section 5700 Definitions.** To the extent any of these definitions conflict with definitions set forth in Government Code section 8869.82 and Chapter 1 of these regulations, the definitions contained in this section 5700 shall apply to this Chapter 13:

“Chartering Authority” means a State educational agency, local education agency, or other public entity that has the authority pursuant to State to authorize or approve a Charter School.

Necessity: This definition is necessary to clarify for lenders and borrowers what agency may authorize or approve a charter school.

“Qualified Public Educational Facility Project Sponsor” means a private, for-profit corporation that undertakes the financing or refinancing of a qualified public education facility in conjunction with a school district, charter school, county office of education, or community college district in compliance with IRC section 142(k).

Necessity: This definition is necessary to clarify for lenders and borrowers who may be considered a Project Sponsor for purposes of the Program.

“Qualified Public Educational Facility Bond Application” form means the Application titled “Application for an Award of Qualified Public Education Facility Bond Allocation” (7-19-17), which is hereby incorporated by reference.

Necessity: The form has been created to provide a method for applicants to apply to CDLAC to receive an allocation of Qualified Public Education Facility Bond Allocation. The application will be dated 07-19-17.

“Public elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school, which provides elementary education, as determined under State law.

Necessity: This definition is necessary to clarify for lenders and borrowers what types of schools are eligible for participation in the Program.

“Public secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school, which provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

Necessity: This definition is necessary to clarify for lenders and borrowers what types of schools are eligible for participation in the Program.

“Qualified Public Educational Facility Bonds” (QPEFB’s) are tax-exempt private activity bonds issued to finance the construction, rehabilitation, refurbishment, or equipping of a Qualified Public Education Facility.

Necessity: This definition is necessary to describe for lenders and borrowers the subject matter of the Program.

“Qualified Public Educational Facility” means any school facility which is part of a Public Elementary School or Public Secondary School, and owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local education agency pursuant to Internal Revenue Code § 142(k)(2).

Necessity: This definition is necessary to describe for lenders and borrowers what types of facilities are eligible for enrollment in the Program.

“School Facility” means any school building; any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events; and any property to which Internal Revenue Code § 168 applies or would apply but for section 179, for use in such a facility.

Necessity: This definition is necessary to clarify for lenders and borrowers what type of buildings are eligible for participation in the Program.

## **Article 2. Applications.**

**Section 5710. Application Process.** Applications for an Allocation of the Qualified Public Educational Facility Pool shall be considered in accordance with the provisions of Chapter 1 and the submission of a Qualified Public Educational Facility Bond (QPEFB) Program Application (Application).

Necessity: This section describes the Application process and required Application form.

**Section 5711. Allocations.**

- a) The Committee may award a Qualified Public Educational Facility Bond Allocation to the California School Finance Authority (“CSFA”) for the purposes of:
  - (1) administering the Qualified Public Educational Facility Bond Pool. In awarding the Allocation to CSFA, the Committee will authorize CSFA to allocate portions of the award to Project Sponsors for purposes of issuing Bonds; or
  - (2) sub-awarding Qualified Public Educational Facility Bond Allocation to Applicants on behalf of the Committee. In awarding the Allocation to CSFA, the Committee will authorize CSFA to transfer portions of the Allocation to Local Issuers and the CIEDB for purposes of issuing bonds under the Qualified Public Educational Facility Bond Program.
- b) The Committee may also directly award a Qualified Public Educational Facility Bond Allocation to Applicants for purposes of issuing bonds in connection with a specific project in compliance with this Chapter.

Necessity: This sections describes the contemplated allocations under the Program. Subsection a(1) describes an award of a Qualified Public Educational Facility Bond Allocation from CDLAC to CSFA for the purposes of administering the Qualified Public Educational Facility Bond Pool, whereby CSFA is authorized to allocate portions of the award to Project Sponsors for purposes of issuing Bonds. Subsection a(2) describes an award of a Qualified Public Educational Facility Bond Allocation from CDLAC to CSFA in which CSFA is authorized to transfer portions of the Allocation to local issuers and the California Infrastructure and Economic Development Bank (CIEDB) for purposes of issuing bonds under the Program. Subsection b describes direct awards from CDLAC to Applicants in connection with a specific project.

**Article 3. Eligibility.**

**Section 5720. Project Readiness.** The Applicant must provide evidence of project readiness to the satisfaction of CSFA. The Applicant must provide the following readiness information as applicable:

- (a) A description of the project(s) that will be financed with the bond proceeds;
- (b) Estimated beginning and ending date of project construction;
- (c) Evidence of site control as described in section 5190;
- (d) For projects involving charter schools, a copy of the charter or other evidence that a charter is in place, and evidence that the school is in good standing with its Chartering Authority; and
- (e) Evidence of a public-private partnership agreement for the project that complies with the requirements of Internal Revenue Code section 142(k)(2).

Necessity: This section requires Applicants to provide evidence of project readiness to the satisfaction of CSFA. Subsection (a) requires Applicants to provide a description of the project(s) to be financed with bond proceeds. Subsection (b) requires Applicants to provide the estimated beginning and ending date of project construction. Subsection (c) requires Applicants to provide evidence of site control as described in section 5190. Subsection (d) requires, for projects involving charter schools, a copy of the charter or other evidence that a charter is in place, and evidence that the school is in good standing with its Chartering Authority. Subsection (e) requires Applicants to provide evidence of a public-private partnership agreement for the project that complies with the requirements of Internal Revenue Code section 142(k)(2).

**Section 5721. Permits.** The Applicant must provide documentation of the applicable discretionary use permits and approvals from local planning agencies, as described in section 5190(b), for the proposed Project at the time of Application.

Necessity: This section clarifies that Applicants must provide documentation of applicable discretionary use permits and approvals from local planning agencies, as described in section 5190(b), for the proposed Project at the time of Application.

**Article 4. Reporting and Regulatory Requirements.**

**Section 5730. Specific Reports.** CSFA will report each transfer of Allocation to the Executive Director of the Committee. Applicants receiving Allocation, including CSFA where it serves as the issuer, under the Program shall comply with the reporting requirements contained in article 11 of chapter 1.

Necessity: Specific Reports. This section describes the reporting requirements for the Program. CSFA will report each transfer of Allocation to the CDLAC Executive Director. In addition, Applicants receiving an Allocation, including CSFA when it serves as the issuer, shall comply with the reporting requirements described in existing Article 11 of Chapter 1.

**Section 5731. Regulatory Compliance.** An Applicant that receives an allocation of Qualified Public Educational Facility Bonds must enter into a regulatory agreement with the Project Sponsor that requires the project to be used for public school purposes for the term of the public-private partnership agreement or the bonds, whichever period is longer. At a minimum, the regulatory agreement shall be recorded against the property and include the following:

- (a) Language incorporating by reference the CDLAC allocation resolution and all of its terms and conditions;
- (b) A term consistent with the CDLAC allocation resolution and, at a minimum, be no less than the term of the public-private partnership agreement or the bonds, whichever is longer;
- (c) Include all applicable requirements contained in 26 U.S.C. section 142 and Education Code section 17170, et seq.;
- (d) A requirement that the project be maintained for public school purposes during the term of the regulatory agreement;
- (e) Designate CDLAC to receive notice of changes in ownership, Issuer, school that utilizes the project, and project name; and
- (f) Designate CDLAC to receive all notices regarding defaults associated with the bonds.

Necessity: This section sets forth the required regulatory compliance for the Program. Applicants receiving an Allocation must enter into a regulatory agreement with the Project Sponsor that requires the project to be used for public school purposes for the term of the public-private partnership agreement or the bonds, whichever period is longer. At a minimum, the agreement must be recorded against the property and include the following:

- (a) Necessity: This subsection includes language to ensure the CDLAC allocation resolution is incorporated into the regulatory agreement and all of its terms and conditions by reference.
- (b) Necessity: The subsection requires the regulatory agreement to incorporate a term longer than either the CDLAC allocation resolution, the term of the public-private partnership agreement, or the bonds.
- (c) Necessity: This subsection clarifies all applicable requirements contained in 26 U.S.C. section 142 and Education Code section 17170, et seq will be incorporated into the regulatory agreement.
- (d) Necessity: This subsection clarifies a requirement that the project be maintained for public school purposes during the term of the agreement.
- (e) Necessity: This subsection designates CDLAC to receive notice of changes in ownership, issuer, school utilizing the project, and project name; and
- (f) Necessity: This subsection designates CDLAC to receive all notices of default associated with the bonds.

**DISCUSSION:**

Should the Committee approve these proposed revisions, staff will submit the emergency rulemaking package to OAL immediately following the 5-day pre-notice 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 November 15, 2017 Application Round. All consequential public comment

will be considered by staff and may result in reevaluation of the proposed regulations. Should this occur, staff will withdraw its emergency rulemaking package from OAL and provide updated proposed regulations to the Committee on September 20, 2017 for additional consideration.

**RECOMMENDATION:**

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

*Prepared by: Ruben Barcelo*

# FORMS



STATE OF CALIFORNIA

**CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**

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SACRAMENTO, CA 95814  
TELEPHONE: (916) 653-3255  
FAX: (916) 653-6827  
www.treasurer.ca.gov/cdlac

Laura Whittall-Scherfee  
*Executive Director*

**MEMBERS**  
John Chiang, Chairman  
*State Treasurer*  
  
Edmund G. Brown Jr.  
*Governor*  
  
Betty Yee  
*State Controller*

**FOR CDLAC USE ONLY**

**Application No.** \_\_\_\_\_

**Analyst:** \_\_\_\_\_

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**

**APPLICATION FOR AN ALLOCATION OF THE STATE CEILING ON QUALIFIED PRIVATE ACTIVITY BONDS FOR A QUALIFIED PUBLIC EDUCATIONAL FACILITY BOND PROJECT**

APPLICANT: \_\_\_\_\_

PROJECT SPONSOR (Borrower): \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

We, the undersigned, hereby make Application to The California Debt Limit Allocation Committee (“CDLAC”) for the purpose of providing a Qualified Public Educational Facility Bond (“QPEFB”), as described herein.

We agree it is our responsibility to provide CDLAC with a complete application submitted in .pdf format via e-mail to [cdlac@treasurer.ca.gov](mailto:cdlac@treasurer.ca.gov), accompanied by a check made payable to CDLAC in the amount of \$1200, 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 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 Public Educational Facility 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 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. 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 submitted **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

\_\_\_\_\_  
\_\_\_\_\_  
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.htm> 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

## THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

### APPLICATION FOR AN ALLOCATION OF THE STATE CEILING ON QUALIFIED PRIVATE ACTIVITY BONDS FOR A QUALIFIED PUBLIC EDUCATIONAL FACILITY 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.:

**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:

##### FOR QUESTION CONCERNING COMPLIANCE

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:

##### 2. BOND COUNSEL

Name of Firm:

Name of Attorney:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: (      )

Fax: (      )

E-Mail:

**3. BOND UNDERWRITER**

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: (     )     )

Fax: (     )     )

E-Mail:

**4. PRIVATE PLACEMENT AGENT (IF APPLICABLE)**

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: (     )     )

Fax: (     )     )

E-Mail:

**5. PRIVATE PLACEMENT BOND PURCHASER (IF APPLICABLE)**

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: (     )     )

Fax: (     )     )

E-Mail:

**6. CREDIT ENHANCEMENT PROVIDER**

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: (     )     )

Fax: (     )     )

E-Mail:

**7. FINANCIAL ADVISOR/CONSULTANT**

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:

3. Date of inducement:

Attach (**Attachment “A”**) a copy of the adopted resolution. (See Section 5033.5 of CDLAC Regulations.)

4. Date of TEFRA hearing:

Submit (**Attachment “B”**) proof of TEFRA (public approval process required by 26 U.S.C. Section 147(f)). (See Chapter 1, Article 6 of the CDLAC Regulations)

5. Indicate whether bonds will be sold in a public offering or in a private placement:

Indicate whether the bonds will be variable or fixed rate:

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 by a “**YES**” or “**NO**” whether the bond issuance will be used to convert taxable debt to tax-exempt debt:

If “**YES**”, provide the date, if applicable, on which the proposed Project will lose its ability to use tax-exempt bond financing:

7. 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.):

Attach (**Attachment “C”**), if more than one commitment, label Attachments in sequential order as “**C-1, C-2**”, etc.) the credit enhancement commitment or commitment to purchase privately placed bonds. (See Sections 5061-5064 of the CDLAC Regulations.)

(If there will be no Credit Enhancement for the bonds, CDLAC staff may require that the Project Sponsor submit an engineering or economic feasibility study, or both. In cases where the Project Sponsor has completed such studies, the CDLAC staff may request that a review by an independent consultant, who has been approved by the CDLAC Executive Director, be completed. The Project Sponsor shall pay the fees of such independent consultant.)

8. Anticipated bond rating (see Section 5061 of the CDLAC Regulations):

	<u>Rating</u>	<u>Date Rating Anticipated</u>
Fitch		
Moody's		
Standard & Poor's		
Other		

9. Indicate the amount of taxable bonds and other means of financing, in addition to the cash equity required by the Credit Enhancer, that will be utilized in conjunction with the requested allocation of tax-exempt bonds (See Section 5433 of the CDLAC Regulations). \$

Attach (**Attachment "D"**) documentation demonstrating that the proceeds of the taxable bonds and other means of financing, in addition to the cash equity required by the Credit Enhancer, will be used towards project expenses that are directly related to the acquisition, construction/rehabilitation, equipment purchase/installment, or operation of the proposed Project.

## 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**

1) Officers of the Corporation

2) Major Shareholders (10% or more)

3) Date and place of incorporation

4) 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**

1) Names and addresses of general and limited partners, and share of ownership.

2) Date of partnership.

**Sole Proprietorship**

1) Date and place of establishment.

F. Federal Tax Identification Number for Project Sponsor and user, including IRS Office where tax returns are filed:

G. Description of present physical facilities, including size and use of facility:

H. 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.

## 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 “E”**) 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. Description of Proposed Project (**Attachment “F”**). Please include all of the following:

A. Brief narrative describing the purpose of project, explaining the business rationale and economic benefit to be achieved from the project.

B. Description of the project, including whether it constitutes a renovation or new construction, the number of acres to be acquired, the number of square feet to be constructed/renovated, the type of equipment being purchased, and any other pertinent information.

C. Estimated time of construction or renovation, including start date and completion date.

D. The communities to be served by the proposed facility.

E. Any other special feature of the proposed Project (i.e., new technology).



4. 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.

	<b>To Be Paid From Bond Proceeds</b>	<b>To Be Paid From All Other Sources</b>
Acquisition of Land	\$	\$
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 (including discount)		
Letter of Credit or Bond Insurance Fee		
Interest During Construction		
From       to		
Interest Income During Construction		
From       to		
Other (please explain)		
	<b>Total Bond Amount</b>	<b>Total Other Costs</b>
	\$	\$

## PART V – MINIMUM REQUIREMENTS

**Applicants are advised to read Sections 5720-5721. of the CDLAC Regulations regarding Qualified Public Educational Facility Projects before answering the following questions.**

1. For projects involving charter schools, attach (**Attachment “G”**) a copy of a valid charter and evidence that the charter is in place and that the school is in good standing with its Authorized Public Chartering Agency.
2. Attach (**Attachment “H”**), if more than one attachment, label each attachment in sequential order as **“H-1, H-2”** etc.) evidence of all relevant approvals or permits relating to the project (i.e. conditional use permit, 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 copy of the permit certification letter submitted to the California Pollution Control Financing Authority (CPCFA) (if used, the form should be labeled **Attachment “H”**).

**PART VI – EVALUATION CRITERIA**

**Applicants are advised to read Section 5700 of the CDLAC Regulations regarding Qualified Public Educational Facility Projects before answering the following questions.**

*Section 5700 of the CDLAC Regulations defines a “Qualified Public Educational Facility” as any school facility which is part of a Public Elementary School or Public Secondary School, and owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local education agency pursuant to Internal Revenue Code Section 142(k)(2). “School Facility” means any school building; any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events; and any property to which Internal Revenue Code section 168 applies or would apply but for section 179, for use in such a facility.*

**1. 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. Provide the information requested below **and** provide evidence documenting the Program’s performance over the past three years. Applicants must demonstrate that Qualified Public Educational Facility Program Allocation from the past year has been used to issue Qualified Public Educational Facility bonds. **(Attachment I)**

Input the total allocation awarded in the previous calendar year and the total allocation used in the previous calendar year in the chart below.

a. Total allocation awarded in the previous calendar year:	
b. Total allocation used in the previous calendar year:	
c. Percentage of previous year’s allocation used (a/b):	0%

**2. Proposed interest rate vs. actual interest rate**

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 in comparison to the allocation round’s other applicants’ proposed and previous year’s actual average interest rates.

- a. Proposed interest rate:
- b. Previous actual average interest rate:

## PART VII – LEGAL STATUS OF PROJECT SPONSOR

*If a separate sheet is used to respond to the following questions, the sheet shall be labeled **Attachment J**.*

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.

**1.** Disclose material information relating to any legal or regulatory proceeding or investigation in which the project sponsor is or has been a party and which might have a material impact on the financial viability of the project or the project sponsor. Such disclosures should include any parent, subsidiary, or affiliate of the project sponsor that is involved in the management, operation, or development of the project.

**2.** Disclose any civil, criminal, or regulatory action in which the project sponsor, or any current board members (not including volunteer board members of non-profit entities), partners, limited liability corporation members, senior officers, or senior management personnel has been named a defendant in such action in the past ten years involving fraud or corruption, or matters involving health and safety where there are allegations of serious harm to employees, the public, or the environment.

## PART VIII – SELLER OF PROPERTY INFORMATION

PART VIII 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?

**APPLICATION DOCUMENTS CHECKLIST**

This checklist is provided to assist you in making sure 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
	Copy of \$1200 Initial Filing Fee Made Payable to CDLAC (See Section 5033( b)(2) of CDLAC Regulations)	
	<u>Signed</u> Performance Deposit Certification Form (See Section 5033( b)(1) of CDLAC Regulations)	
	Evidence of the Performance Deposit (See Section 5033(b)(1) of CDLAC Regulations)	
	<u>Signed</u> Application Acknowledgement (page 2 of application)	
	Adopted Inducement Resolution (See Section 5033(b)(5) of CDLAC Regulations.)	<b>A</b>
	Evidence of TEFRA Hearing (either Adopted Resolution or Certification) (See Section 5033(b)(6). of CDLAC Regulations.)	<b>B</b>
	Evidence of Credit Enhancement or Bond Purchase Commitment (See Section 5061 of CDLAC Regulations.)	<b>C</b>
	Evidence of Leveraging (Section 5433 of CDLAC Regulations)	<b>D</b>
	Description of Current Improvements on the Site	<b>E</b>
	Description of Proposed Project CDLAC Form	<b>F</b>
	Valid Charter and Evidence of Good Standing with Chartering Authority	<b>G</b>
	Evidence of Permits and Approvals Documentation (Section 5422 of CDLAC Regulations)	<b>H</b>
	Evidence of Past Program Performance (Section 5346 of CDLAC Regulations)	<b>I</b>
	Legal Status of Applicant and Project Sponsor	<b>J</b>
	This application should be submitted in .pdf format via an e-mail to cdlac@treasurer.ca.gov	

**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.



**ATTACHMENT F**

**DESCRIPTION OF THE PROPOSED PROJECT**

The description must include:

A. Brief narrative describing the purpose of project, explaining the business rationale and economic benefit to be achieved from the project.

B. Description of the project, including whether it constitutes a renovation or new construction, the number of acres to be acquired, the number of square feet to be constructed/renovated, the type of equipment being purchased, and any other pertinent information.

C. Estimated time of construction or renovation, including start date and completion date.

D. The communities to be served by the proposed facility.

E. Any other special feature of the proposed project (e.g., new technology)

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

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

**INSTRUCTIONS:** Per the CDLAC Regulations, all Projects/Programs within an existing bond regulatory period and/or CDLAC compliance period shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). Mortgage Credit Certificate Single Family Housing Programs with outstanding authority shall be monitored for the same requirements. The Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification via the CDLAC Online Compliance Certification System. The self-certification must be submitted by the Applicant to CDLAC no later than March 1 of each year (or at such other time as defined in the CDLAC Regulations or requested by the Committee).

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

**(All) Applicant/Issuer Name:**

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

**(All) Program Type (QRRP, SFH, EXEMPT, IDB, Etc.):**

**(All) Application Number(s):**

**(All) Resolution Number(s):**

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

**(All) Project Completion Date** (Enter Placed in Service Date or program completion date):

(QRRP PRIOR TO 2017) Has the Applicant received the Project Sponsor’s complete Compliance Certification for this reporting period? (Applicable to projects awarded allocation after 2000) If no, please explain or indicate “Not Applicable”.

(All 2017 and BEYOND) Has the Applicant received the Project Sponsor’s complete Compliance Certification II for this reporting period?

(All 2017 and BEYOND) If the Project Sponsor/Borrower indicated in the Certification of Compliance II or like form:

- a. A change in project name , please provide the new project name
- b. A change in ownership affecting the CDLAC resolution, please provide contact information for the new owner
- c. A change in Issuer, please provide the new Issuer name
- d. All bonds have been redeemed, please provide the redemption notice
- e. A notice or event of default or of foreclosure has occurred, please explain

**(ALL 2017 AND BEYOND) \*Please note if any of these circumstances have occurred, request revision to the CDLAC resolution**

(QRRP PRIOR TO 2017) Has the project satisfied the following requirements as memorialized in the Exhibit A of the CDLAC Resolution and bond regulatory agreement?

1. QRRP PRIOR TO 2017 ONLY: Has the project satisfied all of the income rent requirements memorialized in the Exhibit A (Applicable to projects awarded allocation after 2000)? If no, please explain or indicate "Not Applicable".
2. ALL QRRP ONLY: Has the project satisfied all of the income rent requirements memorialized in the bond regulatory agreement? If no, please explain.
3. QRRP PRIOR TO 2017 ONLY: Is the Project currently providing service amenities on a regular and ongoing basis? (Note: services must be provided for the minimum committed term beginning after the project has been placed in service) If no, please explain or indicate "Project did not commit to Service amenities; or Project has completed term of commitment".
4. ALL PRIOR TO 2017: Has the project/program satisfied all other requirements as memorialized in the Exhibit A? If no, please explain.
5. QRRP ONLY 2017 and BEYOND: If the Project Sponsor/Borrower indicated in the Certification of Compliance II or like form:
  - a. Has the regulatory agreement has been terminated, if yes please explain
  - b. Are the number of Federal Bond Restricted Units and Other Restricted Units consistent with the CDLAC resolution, if not please explain
  - c. Is the 10% at 50% general distribution requirement being met in a manner consistent with the CDLAC resolution, if no please explain.
  - d. Are the service amenities being provided in a manner consistent with the CDLAC resolution, if no please explain.
6. IDB 2017 and BEYOND ONLY: If the Project Sponsor/Borrower indicated jobs had been created or retained, please report on how many jobs were created or retained.

7. SINGLE FAMILY 2017 and BEYOND ONLY: Has the single family program met the income and geographical targets identified in the CDLAC resolution? If no, please explain.
8. ALL QPEF ONLY: Has the project satisfied all requirements memorialized in the bond regulatory agreement? If no, please explain.
9. ALL QPEF ONLY: Has the bond regulatory agreement been terminated? If yes, please explain.

**Certification of Compliance II**  
**for Non-Qualified Residential Rental Projects**

1. Project Name Change:                      No \_\_\_\_              Yes \_\_\_\_

(If project name has changed since the award of allocation, please note the new project name as well as the original project name.)

New: \_\_\_\_\_                      Original: \_\_\_\_\_

2. CDLAC Application No.: \_\_\_\_\_

3. Bond Issuer Change:                      No \_\_\_\_              Yes \_\_\_\_

(If Bond Issuer has changed since the award as a result of refinancing or refunding of an allocation, please note the new Issuer as well as the original Issuer.)

New: \_\_\_\_\_                      Original: \_\_\_\_\_

Address: \_\_\_\_\_                      Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

4. Change in Borrower:                      No \_\_\_\_              Yes \_\_\_\_

(If Borrower has changed since the award affecting the CDLAC resolution, please note the new Borrower as well as the original Borrower.)

New: \_\_\_\_\_                      Original: \_\_\_\_\_

Address: \_\_\_\_\_                      Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

5. Has the project been completed and placed in service?      No \_\_\_\_              Yes \_\_\_\_

(If yes, please submit Completion Certification (one time only).)

Already submitted certification

6. Has 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.

No \_\_\_\_              Yes \_\_\_\_              If yes, please describe and explain.

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

8. (QPEF ONLY) If applicable in CDLAC Exhibit A, please certify that the project is being maintained for public school purposes during the term of the regulatory agreement.

Yes \_\_\_\_\_ No \_\_\_\_\_ If no, please provide an explanation.

"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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Phone Number

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