

# California Debt Limit Allocation Committee

Jesse Unruh Building  
Large Executive Office Conference Room 110  
915 Capitol Mall  
Sacramento, CA 95814  
**November 21, 2017**  
Meeting Minutes

## OPEN SESSION

### 1. Call to Order and Roll Call

Jeree Glasser-Hedrick, Chairperson, called the California Debt Limit Allocation Committee (CDLAC) meeting to order at 11:03 a.m.

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

### 2. Executive Director's Report (Informational Item)

Laura Whittall-Scherfee stated that she had nothing to report as she was ready to move to Item 3.

### 3. Consideration and Approval of Proposed CDLAC Regulations Establishing an Expedited Application Process Through the End of 2017 for Submittal to the Office of Administrative Law (OAL) (Action Item)

Laura Whittall-Scherfee stated that staff was requesting Approval of proposed CDLAC Regulations for submittal to the Office of Administrative Law (OAL) for emergency and regular rulemaking consideration.

CDLAC will submit, if approved by Committee, a request for emergency approval of the proposed regulation changes to the OAL on November 21, 2017 with an anticipated approval and adoption date of December 1<sup>st</sup> and an application deadline of December 8<sup>th</sup> in order to allocate all remaining allocation on December 20<sup>th</sup> giving issuers approximately eleven (11) days to actually issue bonds.

The purpose of some of these regulation changes was to correct and clarify previous regulation changes and regulation language that had been inaccurate or unclear. Emergency regulations were also necessary to allow CDLAC to allocate all remaining bond authority for 2017. This was necessary because the Tax Cuts and Jobs Act (the Act) introduced in the House of Representatives on November 2<sup>nd</sup> proposed the elimination of the Bond Program. Should the Act pass, bond allocation that was not issued by December 31, 2017 would be swept.

Ms. Whittall-Scherfee reported that CDLAC does have approximately \$900 million of allocation that has not been awarded for 2017. Through the adoption of these regulations, it would allow CDLAC to have a streamlined approval process so that CDLAC may award the remaining allocation, and the Issuers may issue tax-exempt bonds prior to yearend. Staff would like to take

advantage of the private activity bonds that were still available so that all housing that could be built would be built, and the only way to do that was to award the remaining allocation.

Ms. Whittall-Scherfee further reported that before the Board was a request for emergency regulations in addition to Section 5259 that allowed staff the flexibility of having an application this late in the year. Staff also submitted regulation changes that were being considered prior to November 2<sup>nd</sup>. These changes are two-fold; the first was to correct and clarify previous regulation changes and language that was inaccurate or unclear. The second purpose was to make sure that as CDLAC moves closer to having a joint application with the Tax Credit Allocation Committee (TCAC), that the final application is one that OAL has reviewed and approved.

When the Board packet was first provided to the Committee, the proposed regulations encompassed twenty-two (22) pages. OAL made it very clear to CDLAC that it may not be able to meet the ten (10) day deadline. For that reason, Staff gave OAL only the exact provisions that were being changed, added to or subtracted from.

The original packet had provisions in Agenda Item 3 that referenced a Table of Contents. The Table of Contents was not included in the proposed regulations so it was removed from the revised Agenda Item 3. Staff will add the Table of Contents at a future time.

Ms. Whittall-Scherfee stated that CDLACs primary goal was to get the regulation package approved. The largest single change was made to Section 5259. Those changes take effect immediately. The balance of the proposed regulation changes would take effect on January 1, 2018. The applicants that have applied for the December 20<sup>th</sup> awards would not be subject to the rest of the changes that are being proposed. They would be subject to the application process which was described in Chapter 2, Article 13.

One (1) of the other changes made was on page 8 in the discussion section. It stated that the meeting date would be December 27<sup>th</sup>. The meeting was changed to December 20<sup>th</sup> as noted in the revised page 8.

Ms. Whittall-Scherfee stated that she would be happy to answer any questions, or hear any comments.

Ms. Ortega asked about the dual track if nothing happens with the Act for some period of time.

Ms. Whittall-Scherfee stated that Staff would proceed with the December 20<sup>th</sup> meeting and whatever was not allocated would be given as carryforward. As part of the dual track, Staff will request approval to allocate carryforward on a percentage basis at the December 13<sup>th</sup> meeting.

Letters will be sent to the Issuers stating that they will receive “X” percent of the carryforward that was requested. Starting January 1, 2018, it is business as usual. The goal is that if an Issuer cannot issue by December 31<sup>st</sup>, they may come back in January asking for new allocation for the March 2018 round. Staff will not provide Issuers with the ability to ask for an extension of the allocation they receive on December 20<sup>th</sup>. TCAC would still need to issue 4% tax credits for all of those deals and that would happen in 2018 as the 4% tax credit program is not in danger.

Jeree Glasser-Hedrick asked if there were a breakthrough at the Federal level, and private activity bonds were preserved prior to the December 20<sup>th</sup> meeting, how Laura would address that situation.

Ms. Whittall-Scherfee stated that she would propose cancelling the meeting, and then proceed with the carryforward requests as usual. If the preservation happens after the December 20<sup>th</sup> meeting, Laura would propose that Staff continue with an issuance date of December 31<sup>st</sup>.

Ms. Glasser-Hedrick asked if the regulations were approved by the OAL, would the Executive Director have the discretion to cancel the December meeting.

Robert Hedrick responded that cancelling the meeting would not affect the regulations. Without a meeting, there would be no opportunity to hear the applications, approve Staff recommendations and award allocation.

Mr. LoFaso understood that it was one (1) application cycle between December 1<sup>st</sup> and December 31<sup>st</sup>. Mr. LoFaso proposed several hypotheticals, one of which was the cancellation of the December 20<sup>th</sup> meeting. He inquired if Staff could recommend denial of the applications that were submitted if the meeting were to be cancelled.

Ms. Whittall-Scherfee stated that the December meeting would not be cancelled unless something concrete happened such as the preservation of private activity bonds. In Section 5259, it was stated that this section remains in effect until January 1, 2018, and it is repealed as of that date.

Mr. LoFaso inquired whether the time limit applies to just the application or for the entire process of allocation.

Ms. Whittall-Scherfee replied that for her it was the application process that would no longer be valid. The applicants would have to revert to the regular regulations that would be in effect in January which would preclude an application that only included this information.

Mr. LoFaso responded that the question was not about the application process, it was about allocation. If someone applied in the December 1<sup>st</sup> window and the December 20<sup>th</sup> meeting did not take place, would that mean that the terms of the cancellation of this section cancels out all of the applications because the allocations would not valid unless they were both applied for and allocated before December 31<sup>st</sup>.

Ms. Whittall-Scherfee replied yes, due to the dual track. If the meeting were cancelled, the remaining allocation would be granted to the issuers that had requested carryforward allocation. There is nothing to award to all of the applicants that had applied in December. Carryforward allocation must be granted prior to December 31<sup>st</sup>, otherwise it would be lost.

Ms. Glasser-Hedrick commented that Item 2 in Section 5259 provides clarity that allocations made under this special process, which expires January 1, 2018, will only remain in effect until December 31<sup>st</sup>. There is an application time window and an allocation validity time window which expires in December 31<sup>st</sup>. The whole section is repealed January 1<sup>st</sup>.

Mr. Hedrick reiterated that if private activity bonds were preserved and the applications were not presented at the December 20<sup>th</sup> meeting, the applicants would have to reapply January 1<sup>st</sup> using the previously existing application process.

Mr. LoFaso thanked Staff for their efforts during this challenging time. Alan also appreciated the pre-notice. As it relates to the formal process, will Staff inform the Board of the responses received during the public comment process?

Ms. Whittall-Scherfee stated that she could incorporate those comments in to her Executive Director's report at the December 13, 2017 meeting.

Mr. LoFaso replied that he did not want to add extra work; however, he would like to get clarity on this unusual process. Was Staff going to do a comment matrix for the 10-day OAL public comments?

Ms. Whittall-Scherfee replied that Staff does have to respond to the comments. OAL also expects to see what the comments were after the public comment period.

Mr. LoFaso thanked Ms. Whittall-Scherfee for her efforts.

Ms. Glasser-Hedrick also thanked Ms. Whittall-Scherfee for all her efforts during this challenging time.

Ms. Whittall-Scherfee responded that Staff and several of the applicants were incredibly helpful through the process. She believes this may be the first time in CDLACs history that four (4) meetings were held inside of forty-five days. She is hopeful that this will be the last time this happens.

Mr. Hedrick stated that language should be added to Staff's recommendation authorizing the Executive Director to make non-substantive changes by the OAL.

**RECOMMENDATION:**

In light of the circumstances, Staff recommended approval of the proposed CDLAC Regulations establishing an expedited application process through the end of 2017 for submittal to the Office of Administrative Law and authorizing the Executive Director to make non-substantive changes by the OAL.

Eraina Ortega moved approval of Staff's recommendation as amended by Robert Hedrick. Upon a second by Alan LoFaso, the motion passed 3-0 with the following votes: Eraina Ortega: Aye; Alan LoFaso: Aye; Jeree Glasser-Hedrick: Aye.

**4. Public Comment**

There was no public comment.

**5. Adjournment**

The Chairperson adjourned the meeting at 11:32 a. m.