

Date: December 16, 2020

To: CDLAC Committee Members

From: Judith Blackwell, Executive Director

Re: Final Draft of CDLAC Regulations for December 21 Meeting

On December 9, CDLAC held a meeting to discuss and receive input on a revised draft of the CDLAC regulations. In response to public comment from that meeting as well as further Staff input, attached is a final draft of Staff's proposed amendments to the regulations, recognizing that the Committee may still make further changes at the upcoming December 21 meeting. The revised changes are identified with highlighted **additions** and **deletions**. All previously proposed changes continue to be retained so that Committee Members and stakeholders can observe the progression of the document.

The substantial majority of the new changes are technical and/or administrative in nature and are proposed based upon a thorough reading of the revised regulations as well as valuable stakeholder comments. Nevertheless, Staff is drawing attention to a few items of note:

- PCWBE Definition (page 7) – Qualifications now require both the executive director and 50% of the board members to be Persons of Color
- AFFH Scoring (page 22) – New floor of 30% AMI for purposes of determining the low end of the AMI range; allowance to reduce targeting range from a 40% spread to a 30% spread if market conditions do not allow higher-targeted units or if Low Resource/Poverty Area is adjacent to a High/Highest Resource Area
- Type of Units Counted in Tie Breaker (page 29) – Specificity provided that only units targeted up to 100% AMI and below (i.e. no market rate units) count for purposes of the tie-breaker, provided such units are restricted for at least 30 years

Discussion Items: CDLAC Staff also wishes to highlight a few other items for which changes were not made but which may warrant further discussion by the Committee based on previous public comment:

- ELI/VLI Set-Aside Income Targeting Requirements: Pool qualifications require HCD/Local funding commitments but not deeper income targeting beyond that already allowed for in the scoring system
- Leverage / Cost Containment: Ability to obtain leverage points by providing additional cost containment
- State Credits in Tie Breaker: State tax credits remain in tie-breaker to encourage efficiency of use over concerns of underutilization

Pool and Set-Aside Amounts

Stakeholders continue to express a strong desire for the Committee to adopt the pools and set-asides concurrent with formal adoption of the regulations. Staff has expanded and updated the table previously provided to show the amount of allocation in each category assuming a total QRRP allocation of \$3.5 billion. The Committee is of course free to propose its own allocations and need not choose one of these options.

Pools / Set-Asides (NC = New Construction)	Option 1		Option 2		Option 3	
NC – Homeless	9%	\$315m	10%	\$350m	12%	\$420m
NC – ELI/VLI	14%	\$490m	15%	\$525m	18%	\$630m
NC – Mixed-Income	9%	\$315m	10%	\$350m	12%	\$420m
Rural – NC Only	5%	\$175m	5%	\$175m	5%	\$175m
Preservation	5%	\$175m	4%	\$140m	5%	\$175m
Other Rehabilitation	5%	\$175m	3%	\$105m	5%	\$175m
PCWBE	3%	\$105m	3%	\$105m	3%	\$105m
Geographic – NC Only	50%	\$1.75b	50%	\$1.75b	40%	\$1.40b

Geographic Apportionments

Staff continues to propose use of a super region geographic apportionment system based upon the 9% TCAC program. Staff has also learned that the allocations in the 9% program are slightly cost-adjusted but are based primarily on the number of renter occupied households that are experiencing a high housing cost burden, the data for which is from 2012. Staff has updated the table previously provided to show the approximate amount of allocation in each region assuming a total geographic apportionment of \$1.75 billion.

Region	Option 1: Per 9% Program		Option 2: High-Cost Adjusted		Option 3: Bay Area/LA Focused	
Coastal	21%	\$368m	21%	\$368m	19%	\$333m
City of Los Angeles	18%	\$315m	19%	\$333m	21%	\$368m
Balance of LA County	17%	\$298m	17%	\$298m	16%	\$280m
Bay Area	17%	\$298m	20%	\$350m	24%	\$420m
Inland	17%	\$298m	13%	\$228m	12%	\$210m
Northern	10%	\$175m	10%	\$175m	8%	\$140m

Section 5000 Definitions

~~“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 that is a New Construction Project which either (1) is not utilizing the Average Income test of Internal Revenue Code Section 42 (g)(1)(C) and which has 50% or fewer of its total units designated as Restricted Rental Units or; (2) is part of the California Housing Finance Agency Mixed- Income Program. In a Competitive Application Process, a Mixed Income Project may only apply for an allocation of tax-exempt bonds if the ratio of tax-exempt bonds, not including recycled bonds, to aggregate depreciable basis plus land basis is less than or equal to the ratio of ~~for~~ units that will be restricted pursuant to a TCAC regulatory agreement.

“Rural Project” means a Qualified Residential Rental Project that is a New Construction Project located in a rural area as defined by Health and Safety Code section 50199.21 but shall not include a Mixed Income Project.

Reason: The changes to Section 5020 below establish a Mixed Income Set Aside within a New Construction Pool. As a result, the definition of Mixed Income Project Pool is no longer relevant, and the definition of Mixed Income Project requires a limitation to New Construction Projects. The changes also provide that in a competitive round Mixed Income Projects may only apply for bonds for that are restricted by TCAC. Lastly, the changes limit Rural Projects to New Construction Projects. Non-new construction projects (i.e.; rehabilitation projects) in rural areas would then compete in either the Preservation or Other Rehabilitation Pools proposed in Section 5020.

Reason: The new change to the Mixed Income Project definition clarifies the calculation to be used to determine eligibility for these projects in competitive funding rounds.

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 New Construction~~, Rural, Preservation, Other Rehabilitation and ~~Mixed Income-Project PCWBE~~ Pools as determined in section 5020.

Reason: The changes to this section simply update the list of Qualified Residential Rental Project (QRRP) pools to reflect the revised list of pools proposed in Section 5020.

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~~ New Construction Pool to be available for allocation to ~~Mixed Income~~ New Construction Projects that are not Rural Projects, and determine what amount, if any, shall be available in each Allocation Round.

(A) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a

percentage of the Qualified Residential Rental Project Pool shall be reserved in a Homeless Set-Aside to be available for allocation to New Construction Projects in which at least 25% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) of the TCAC regulations at affordable rents consistent with Section 10325(g)(3) of the TCAC regulations, and determine what amount, if any, shall be available in each Allocation Round.

(B) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in an Extremely Low/Very Low Income Set Aside to be available for allocation to New Construction Projects that have received either of the following, and determine what amount, if any, shall be available in each Allocation Round:

(i) an award of funding from the Department of Housing and Community Development (HCD). For purposes of this Set Aside, an award of funding from HCD shall include awards made directly by the department pursuant to the Multifamily Housing Program, the Affordable Housing and Sustainable Communities Program, the Transit Oriented Development Program, the Joe Serna Jr. Farmworker Housing Grant Program, the No Place Like Home Program, Housing for a Healthy California and the Veterans Housing and Homelessness Prevention Program. The income restrictions shall be at least as restrictive as those for which the applicant received an award from HCD.

(ii) an award of ~~funding from a local public entity~~ public funds as defined in Section 10325(c)(9) of the TCAC regulations equivalent to 15% or more of the Project's total development cost, provided that the project meets the following criteria, as applicable:

(aa) If the project receives points as a Large Family project pursuant to Section 5230(g) and is located in a High Segregation and Poverty Area as specified on TCAC/HCD Opportunity Area Map, the project shall have income restrictions ~~with a range of at least 30% AMI between the highest and lowest 10% of income-restricted units~~ that meet the requirements of Section 5230(j)(1)(C).

(bb) If the project receives points as a Large Family project pursuant to Section 5230(g) and is located in a High or Highest Resource Area as specified on TCAC/HCD Opportunity Area Map, ~~at least 10% of tax credit units shall be restricted at 30% of area median income and an additional 10% of tax credits units shall be restricted at 50% of area median income~~ the project shall have income restrictions that meet the requirements of 5230(j)(1)(A).

(cc) If the project does not receive points as a Large Family project pursuant to Section 5230(g) or is located in a Moderate (Rapidly Changing), Moderate, or Low Resource Area as specified on TCAC/HCD Opportunity Area Map, the project receives maximum points for exceeding minimum income restrictions pursuant to Section 5230(d).

(C) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Mixed Income Set-Aside to be available for allocation to New Construction Projects that are 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.

(3) 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 of the Qualified Residential Rental Project Pool shall be reserved in a Preservation Pool to be available for allocation to Preservation Projects and determine what amount, if any, shall be available in each Allocation Round.

(4) 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 of the Qualified Residential Rental Project Pool shall be reserved in an Other Rehabilitation Pool to be available for allocation to Other Rehabilitation Projects and determine what amount, if any, shall be available in each Allocation Round.

(5) 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 of the Qualified Residential Rental Project Pool shall be reserved in a PCWBE Pool to be available for allocation to PCWBE Projects and determine what amount, if any, shall be available in each Allocation Round.

Reason: The changes to this section establish five subpools with the QRRP Pool:

- 1. New Construction Pool, which would retain the same eligibility criteria used for the 2020 New Construction Pool, except that Mixed Income Projects would now compete under a Mixed Income Set Aside of the New Construction Pool, as opposed to in a separate Mixed Income Pool. Rural new construction projects would continue to compete in the Rural Pool.*
- 2. Rural Pool, which pursuant to the proposed Rural Project definition in Section 5000 would be limited to New Construction Projects in rural areas. Non-New Construction Projects (i.e., rehabilitation projects) in rural areas would now compete in the Preservation or Other Rehabilitation Pools below.*
- 3. Preservation Pool, which would now include rural Preservation Projects but otherwise maintain the same eligibility criteria used for the 2020 Preservation Pool.*
- 4. Other Rehabilitation Pool, which would now include rural projects but otherwise maintain the same eligibility criteria used for the 2020 Other Affordable Pool.*
- 5. Persons of Color / Woman-Owned Business Enterprise (PCWBE) Pool, a new pool whose eligibility is established in the new definition of PCWBE Project in Section 5170. Unlike the other four pools above which are mutually exclusive, projects eligible for the PCWBE Pool that do not receive a bond allocation would be able to compete also in a second pool for which they qualify.*

The changes further establish three set asides within the New Construction Pool:

- 1. Homeless Set Aside, which would be open to New Construction Projects in which at least 25% of the tax credit units were designated for homeless households, as defined consistent with the TCAC 9% tax credit homeless apportionment except for the lower threshold percentage of units serving persons who are homeless (i.e., 25% homeless units for this pool, as opposed to 50% for the TCAC homeless apportionment).*
- 2. Extremely Low/Very Low Income Set Aside, which would be open to New Construction Projects that have received any level of award from specified HCD programs or local public funding equivalent to 15% or more of total development costs. With respect to projects qualifying under the 15% local funding option, all of the following would apply: a) a Large Family project located in a High Segregation and Poverty Area would need to achieve a range of at least 30% AMI between the highest and lowest 10% of income-restricted units; b) a Large Family project located in a High or Highest Resource Area would need to include at least 10% of tax credit units at 30% AMI and an additional 10% of tax credits units at 50% AMI; and c) a Large Family project located in a Moderate (Rapidly Changing), Moderate, or Low Resource Area, or a project meeting any housing type other than Large Family, would need to receive maximum points for exceeding minimum income restrictions.*
- 3. Mixed Income Set Aside, which would be open to New Construction Projects that are Mixed Income Projects (i.e., projects with less than 50% restricted units or that receive CalHFA Mixed Income Program loans).*

Pursuant to the existing Section 5020, the Committee establishes pool and set aside allocations as soon as practicable after the beginning of each calendar year and before any Applications are considered.

Reason: In response to public comment, the new changes add one additional program to the list of eligible HCD programs and also create references to other sections to avoid redundancy and the opportunity for inconsistencies in future regulations.

Section 5022. Geographic Apportionments. For the purpose of allocating bonds available under the QRRP New Construction Pool, annual apportionments of bonds shall be made in approximately the amounts shown below:

Geographic Region	Apportionment
<u>Coastal Region (Monterey, Orange, San Benito, San Diego San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura Counties)</u>	19% to 21%
<u>City of Los Angeles</u>	18% to 21%

Balance of Los Angeles County 16% to 17%

Bay Area Region (Alameda, Contra Costa, San Francisco, San Mateo, and Santa Clara Counties) 17% to 24%

Inland Region (Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Bernardino, San Joaquin, Stanislaus, and Tulare Counties) 12% to 17%

Northern Region (Butte, El Dorado, Marin, Napa, Placer, Sacramento, Shasta, Solano, Sonoma, Sutter, Yuba, and Yolo Counties) 8% to 10%

Reason: In order to ensure a reasonable geographic distribution of bonds remaining in the New Construction Pool after allocations to set asides, the changes establish six regions encompassing the counties of the state that are not exclusively rural. The proposal combines a number of the regions from TCAC's 9% tax credit program to ensure larger apportionments in these "super regions" than would otherwise be the case if CDLAC were to use all TCAC's 9% tax credit regions. It is staff's intent that the Committee will establish the percentage apportionments to each region when it adopts the final regulations in December 2020. The Working Group convened at the Treasurer's request by the California Housing Consortium suggested apportionment ranges as follows. The ranges reflect TCAC's regional allocations with possible adjustments to reflect that projects in higher-cost regions require additional bonds to meet the 50% test to access 4% tax credits. The percentages in parentheses represent the unadjusted aggregation of regional percentages from TCAC's 9% tax credit program. Staff encourages comment on the most appropriate regional apportionments.

	Working Group Proposed Range	Current TCAC %'s
Coastal	19-21%	(21.1%)
City of Los Angeles	18-21%	(17.6%)
Balance of Los Angeles County	16-17%	(17.2%)
Bay Area	17-24%	(17.1%)
Inland	12-17%	(16.9%)
Northern	8-10%	(10.1%)

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 or designee 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), except that for Qualified Residential Rental Projects, an Applicant shall provide the certification and evidence within 20 calendar days following an award of an Allocation.

(2) A non-refundable first installment of the filing fee of \$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, unless excepted herein.

Reason: Applicants for private activity bonds are currently required to post a performance deposit with their application. In a competitive environment where applicants are uncertain whether or not they will receive an allocation, this practice results in the unnecessary use of predevelopment

capital for developers of QRRP's while burdening both CDLAC staff and project issuers with processing requirements. This change would amend the performance deposit requirements for QRRP's by moving the obligation to make the deposit until after an allocation is made, similar to how TCAC treats deposits and allocation fees for low-income housing tax credits.

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). During competitive rounds, the following procedures will be followed for the Qualified Residential Rental Program:

- 1) Within ten (10) calendar days after the application due date, information gathered from the QRRP Self-Scoring Worksheet will be in ranked order. CDLAC will post a list of applicants, project names, project locations, selected pools and set-asides, geographic regions, and requested Allocations and all reported self-scoring totals and tie-breaker score on the Committee's website as provided in section 5140.
- 2) CDLAC will prepare rank ordering of the list of projects and evaluate the requested scoring based on information submitted in the application. CDLAC will only review those projects that are substantially complete, financially feasible and appear to score high enough to receive an Allocation. Within thirty (30) calendar days after the application due date, CDLAC shall notify Applicants and the developers/sponsors of their preliminary score and the reasons for any modifications from the Applicant's Self-Scoring Worksheet. Such notice, or a subsequent notice, may also contain completeness and/or feasibility defects determined during CDLAC's evaluation. CDLAC will only be required to send notices for projects that may appear to score high enough to receive an Allocation. Applicants will have five (5) calendar days to appeal their scores and/or completeness/feasibility defects, which appeals must be addressed to the Executive Director in writing per the instructions contained in the notice. The Executive Director shall then have ten (10) calendar days to issue a final determination. If an Applicant is unsatisfied with the final determination, the Applicant may appeal to the Committee per the instructions in the final determination notice.
- 3) The process specified in paragraph 2 above shall be used to produce a list of Applicants for which the Executive Director expects to recommend an Allocation, subject to any pending appeals that may be heard by the Committee.

(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.

Reason: In response to public comment, Staff is proposing new regulation changes to the application, evaluation and award process that substantially mirrors the process used by TCAC, which receives virtually universal support for its transparency and predictability.

Section 5050. Performance Deposit Requirements. (a) Applications for Qualified Private Activity 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, except that for Qualified Residential Rental Projects, an Applicant shall provide the evidence of a performance deposit within 20 calendar days following an award of an Allocation. 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.

Reason: This is a conforming change to proposed amendments to Section 5033.

Section 5053. Withdrawn or Denied Applications. For Applicants that post the performance deposit

prior to award of an Allocation, 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. Applicants that receive an Allocation may also return the Allocation to the Committee within twenty (20) days of the award date without threat of negative points.

Reason: This is a conforming change to proposed amendments to Section 5033.

Reason: Consistent with TCAC policy and in the interest of producing program alignment, this change will allow awardees of a bond allocation up to twenty days from the date of the allocation to return the allocation to the Committee without threat of negative points.

Section 5101. Extensions to Expiration Dates. Excluding Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, and Mortgage Credit Certificates, for Allocations awarded during an Open Application Process, the Executive Director may grant extensions of up to ~~ninety (90)~~ thirty (30) days.

Reason: This change allows CDLAC staff to more closely monitor projects that have been unable to meet the bond issuance deadline during an open application process by requiring more frequent extension requests, resulting in more frequent updates to the project's status.

Section 5153. Measurement of Distance. (a) Except as provided in (b) wherever ~~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. (b) Wherever these regulations refer to CTCAC regulations, in the event of any conflict between these regulations and the CTCAC regulations with respect to measurement of distance, the CTCAC regulations shall prevail.

Reason: In order to maximize consistency between TCAC and CDLAC programs, many of the point scoring categories proposed for revision in Section 5230 refer to TCAC scoring criteria and standards. The change to this section clarifies that CDLAC would utilize TCAC standards for measuring distance in those point categories that employ TCAC standards, particularly the site amenity points within the proposed affirmatively furthering fair housing category. This change will further ensure consistency in program implementation.

Section 5170. Definitions.

~~"Federally Assisted~~-At Risk Project" means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c) ~~(46)~~ and by section 10325(g) 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) ~~(46)~~ and section 10325(g) of Title 4 of the California Code of Regulations, except that the ~~federal~~ assistance due to expire within five (5) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

"Bond and State Credit Allocation" means the Allocation plus any California State Tax Credits requested from TCAC for an individual QRRP Project.

"Community Revitalization Area" means **1) a Distressed Community for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to the plan have occurred; 2) a Federal Opportunity Zone, Choice Neighborhood, or HUD-approved Neighborhood Revitalization Strategy Area; or 3) a Disadvantaged Community as identified by the California Environmental Protection Agency's CalEnviroScreen map.**

"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.

~~“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.~~

~~“New Construction Pool Project” -- a QRRP projects applying for an allocation of tax-exempt private activity bonds who that meets at least one of the following: (1) the definition of New Construction in Section 5170 100% of its units constitute new units to the market, (2) projects that involves the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater or (3) adaptive re-use of non-residential structures, including hotels and motels that were converted to residential use within the previous 5 years from the date of the application.~~

~~“Person of Color/Woman-Owned Business Enterprise” or “PCWBE” means an entity which is at least 50% owned by one or more Persons of Color or at least 50% controlled by a non-profit organization with a Person of Color executive director or and board membership that is at least 50% Persons of Color, or is a Woman-Owned Business Enterprise as certified by the WOSB Federal Contracting Program. For purposes of this paragraph, Person of Color means “a person who checked the Black or African American, American Indian and Alaska Native, Asian, or Native Hawaiian and Other Pacific Islanders race category or who answered yes to the Hispanic Origin question on the 2020 United States Census or, if that data is not yet publicly available, the 2010 United States Census.”~~

~~“PCWBE Project” means a Qualified Residential Rental Project for which the sponsor entity is a PCWBE. A PCWBE Project may be a New Construction Project, Rural project, Preservation Project, or Other Rehabilitation Project. A PCWBE Project does not include a project for which the qualifying sponsor or sponsor entity is eligible to receive maximum General Partner Experience points pursuant to Section 10325(c)(1)(A) of the TCAC regulations unless those points are awarded to a principle of the PCWBE where there was no financial benefit from, or ownership interest in, those projects who no longer is employed by the developer of, or has an ownership interest in, the project(s) which form the basis of the experience points.~~

~~“Preservation Pool Project” – a QRRP projects applying for an allocation of tax-exempt bonds that is not a New Construction Project and meets at least one of the following: (1) have has a pre-1999 HCD loan that is being restructured pursuant to Section 50560 of the Health and Safety Code (AB 1699 projects) and has not previously received an allocation of Low Income Housing Tax Credits; or (2) any replacement or rehabilitation project approved by HUD pursuant to a Section 18 or 22 Demolition/Disposition authorization; (3) an Federally-Assisted At-Risk project that is not subject to a regulatory agreement imposing a rent restriction with a remaining term that is greater than five years from the year in which the application is filed that restricts income and rents on the residential units to an average no greater than 60% of the area median income; 4) any project being rehabilitated under the first component of the HUD Rental Assistance Demonstration (RAD) Program, or (5), a project that meets all of the following: (aA) the project (or projects, if more than one) is not currently encumbered with an existing CDLAC (via bond issuer), CTCAC, or other affordability regulatory agreement, with the exception of a regulatory agreement associated with a HUD Project-Based Section 8 or USDA Rental Assistance contract; and (bB) the project (or projects, if more than one) is subject to an existing project-based contract under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program that provides rental assistance to at least 50% of the units; and (eC) the project shall be required to complete rehabilitation work at a minimum of \$60,000 in hard construction costs per unit, as defined in TCAC Regulation Section 10302(u), subject to the provisions of IRC Section 42(e)(3)(A)(ii)(I).~~

~~“Other Affordable Pool Rehabilitation Project”: a QRRP Projects applying for an allocation of tax-exempt private activity bonds from the General pool that are is not eligible for treatment as a New Construction or Preservation pProjects. This would include but not be limited to acquisition/rehabilitation projects and projects that involve both acquisition/rehabilitation and new construction. A In a Competitive Application Process, a rehabilitation or acquisition and rehabilitation project must meet all of the following criteria:~~

- ~~1. Will complete at least \$60,000 in hard construction costs per unit, as defined in TCAC Regulation Section 10320(u); and,~~
- ~~2. At least 60% of hard construction costs shall be expended only on immediate health and safety improvements, seismic and accessibility improvements and/or the replacement of major systems with a remaining useful life of less than ten years, as evidenced by a Capital Needs Assessment.~~

~~“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 consistent with Section 5192.

~~“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.~~

“TCAC/HCD Opportunity Area Map” shall have the same meaning as in Section 10302(vv) of the TCAC regulations. An applicant may choose to utilize the census tract or census block group resource designation, as applicable, from the TCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application. Projects located in map areas designated as “Missing / Insufficient Data” or similar designation shall be considered to be in the resource area that most frequently surrounds the perimeter of the Project’s map area.

~~“VOC” means a volatile organic compound.~~

Reason: The changes make add, delete, and alter various definitions applicable to the QRRP Pool as follows:

- 1. Define Cost-Adjusted Allocation for purposes of use in the scoring tie-breaker which accounts for cost differences in various regions of the state. The definition also includes any state tax credits that are part of the QRRP’s financing structure so that those resources are also measured based on efficiency of use.*
- 2. Update the At-Risk defined term to reflect that the cross-referenced statutes are no longer limited to developments that have received federal assistance but also to developments that have received specified state or local assistance. The change also corrects cross-references to the state statute.*
- 3. Define a PCWBE Project which is eligible for the PCWBE Pool.*
- 4. Delete the definitions of High Quality Transit, Substantial Renovation Project, and VOC as those terms would no longer be used in the scoring criteria of Section 5230.*
- 5. Correct a drafting error in the New Construction Project definition that cross-referenced itself, importing the correct language from prior regulations.*
- 6. Clarify that Preservation Projects exclude New Construction Projects.*
- 7. Rename Other Affordable Projects as Other Rehabilitation Projects to better reflect the types of projects included in that pool, correct an inconsistency with the New Construction definition in the current regulations, and apply the existing minimum rehabilitation standards only in competitive CDLAC rounds. In other words, in an open round, projects could apply if they meet the lesser rehabilitation standards of Section 5210.*
- 8. Make a conforming change to the Qualified Project Period definition to reflect the proposed changes in Section 5192 requiring 55 year regulatory terms for all QRRP projects (50 years for projects on Native American lands).*
- 9. Define TCAC/HCD Opportunity Area Map consistent with the TCAC regulations.*

Reason: In response to public comment, the following definitions are proposed to be amended:

Community Revitalization Areas: This definition is being expanded to include areas that are recognized by federal and state agencies as having priority status for investment.

New Construction Project: This definition is amended to make allowances for recent conversions of hotels and motels in support of new state programs that support housing for the homeless.

PCWBE Project: This definition is amended to encourage PCWBE’s to build capacity by hiring experienced leadership and provides an exception to the requirements when an otherwise experienced party has obtained no financial benefit from the projects which are counted as experience for the PCWBE sponsor.

Preservation Project: This definition is amended to further specify the types of projects that are considered eligible in this category in recognition of the public benefit provided and to limit

projects from seeking preservation status when they will remain regulated for at least another 5 years.

Public Funds: With the introduction of leveraged soft resources consistent with TCAC's regulations, this definition becomes obsolete.

Reason: In response to public comment, the new changes proposed address the following:

"Person of Color/Woman-Owned Business Enterprise" or "PCWBE": The change to this definition further specifies PCWBE eligibility by requiring that both the executive director and 50% of the non-profit board must be Persons of Color.

PCWBE Project: The new language for the proposed definition attempts to clarify that any previous financial interest in a project to gain experience points is permitted, but a current and on-going interest in such a project is not permitted for purposes of meeting the experience qualifications for a PCWBE Project.

Preservation Project: The new language for the proposed definition cleans up the previous draft concerning AB 1699 projects and their eligibility for the Preservation Pool if they have previously received an allocation of tax credits. Such projects are eligible for the Preservation Pool, but such projects that have received an allocation of tax credits are awarded fewer points in the Preservation scoring category.

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 QRRP Application. If deficiencies in the application are identified by CDLAC staff, CDLAC Staff shall notify the Project Sponsor and the applicant, and the applicant will have 24 hours five days from staff-issued notification to cure the deficiencies. If, after the 24 hours five days, the deficiencies have not been corrected, as determined by CDLAC staff, the application will be deemed incomplete.

Reason: In response to public comment, Staff is proposing to adopt a process similar to what TCAC uses with regard to application deficiencies.

Section 5190 (a), (h) and (i)

(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 preliminary or final 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, all of which shall be 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. A commitment for title insurance or a title insurance document are not acceptable substitutions for a preliminary title report, final title report, or a title report.

(1)(A) The Applicant or Project Sponsor holds fee title as evidenced by the current (within 90 days prior to the Application date) preliminary or final title report;

(h) Project Description. Applicant shall 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. 10) The Application must include a checklist, Project Type and Characteristics, with the Applicant checking as many items as are applicable to the proposed Project. (A)(i) The Project has an existing HAP contract. Please attach existing contract as Attachment L, L-1, L-2, etc. (ii) The proposed Project is an Federally-Assisted At-Risk Project as defined in Section 5170 of the CDLAC Regulations.

(I) The proposed Project is a Low Income Housing Tax Credit Resyndication Project. (B) The proposed Project is a Mixed Income Project as defined in Section 5000 of the CDLAC Regulations. (C) The proposed Project is a Rural Project as defined in Section 5000 of the CDLAC Regulations. DO NOT CHECK if item (B), above, has been checked. (D) The proposed Project is a ~~an Acquisition & Rehabilitation Preservation~~ Project. (E) The proposed Project is a New Construction Project ~~or Adaptive Reuse~~ as defined in Section 5170 of the CDLAC Regulations. DO NOT CHECK if item (C), above, has been checked. (F) The proposed Project is a single room occupancy (SRO) rental project. (G) The proposed Project is a senior citizens rental project. (H) The proposed Project is an assisted living rental project. (I) The proposed Project is a special needs ~~housing~~ rental project. (J) The proposed Project is eligible for the Homeless Set Aside. (K) The proposed Project is eligible for the Extremely Low/Very Low Income Set Aside. (L) The proposed Project is a PCWBE Project

(i) Detailed Unit Affordability Information. (1) The application will include the Federal Bond-Election of 20% at 50% Area Median Income, or 40% at 60% Area Median Income. (2) For ~~federally-assisted a~~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. Applications not meeting this minimum requirement will be deemed incomplete. (3) The Application will include tables with the following information on the Restricted Rental Units: Number of Bedrooms/Number of Bathrooms, Unit Size in square feet, number of units in subtotals and total, total square feet per unit type in subtotals and total, proposed monthly tenant-paid rent per unit (excluding utilities), proposed monthly rental subsidy per unit, proposed monthly income per unit, monthly utility allowance, monthly gross rent, percent of Area Median Income based on monthly gross rent, and annualized total rental income. The Application will include another table, Market Rate Units, including number of bedrooms, unit square feet in subtotal and total, number of units, proposed monthly tenant-paid rent per unit (excluding utilities), total proposed tenant paid rent and annualized total rental income. Application will include a table, "Managers' Units" Restricted or Market Rate. The table will include columns for number of bedrooms, unit square feet in subtotal and total, number of units, proposed monthly manager-paid rent per unit, total proposed monthly manager-paid rent and annualized total rental income. Application will include a table with total number of units (excluding manager units), total number of restricted units, percent of total restricted units, number of units at or below 50% AMI, percent of units at or below 50% AMI, number of units above 50% to 60% AMI, percent of units above 50% to 60% AMI, number of restricted rental units with 3 or more bedrooms, and percent of restricted rental units with 3 or more bedrooms.

Applicants shall provide a breakdown of Project unit types, size, number of units, proposed tenant- paid rent, monthly utility allowances (if any), subsidies (if any) and unit percentage of Area Median Income (AMI) level based on monthly Gross Rent.

Reason: Clarification of acceptable title documents. The changes to these sections reflect the updated terms of At Risk Projects and Preservation Projects and require that applicants additionally state their eligibility for the PCWBE Pool and the Homeless and ELI/VLI Set Asides.

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, 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 shall 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.

(c) Utility Allowance Evidence. All Projects shall be subject to the use of Gross Rent as defined by Section 5170 and shall provide evidence in one of the following forms:

(1) 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.

(2) 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:

(A) 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

(B) A current utility allowance estimate consistent with 26 CFR section 1.42-10 (4-1-17), which is hereby incorporated by reference. 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; and in accordance with the California Tax Credit Allocation Committee's minimum requirements for utility allowance estimates, Title 4, Division 17, Chapter 1, Section 10322(h)(21).

Reason: The changes to these sections 1) reflect that Mixed Income Projects are proposed to compete in a New Construction Pool Set Aside, as opposed to a QRRP Pool, and 2) require all QRRP projects to use Gross Rents as a threshold criterion. Currently, use of Gross Rents is a scoring category, which is now proposed for elimination in Section 5230.

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 subsection (1) and (2) of this section, Except as provided in subdivision (b), the Qualified Project Period shall be 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. 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.~~

~~(3) For an acquisition/rehabilitation project where more 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~~ If a Project is intended for eventual tenant homeownership, ~~in which case the applicant shall provide~~ 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.~~

Reason: The proposed changes require 55-year affordability, known as a 55-year Qualified Project Period, for all QRRP projects in both open and competitive CDLAC rounds. Currently, a 55-year term is only required in open rounds. In competitive rounds, the minimum affordability term is 30 years, and applicants receive points for agreeing to 55-year affordability. This point category is now proposed for elimination in Section 5230. A 55-year affordability term is the standard across most state multifamily rental housing finance programs.

Section 5205. Minimum Requirements.

(a) Applicants shall provide a certification that the ~~following~~ minimum specifications ~~pursuant to Section 10325(f)(7) (A) thru (J) of the CTCAC Regulations~~ 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)(1).

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

~~(3) Failure to produce appropriate and acceptable third party documentation for subdivisions~~

~~(a)(1) through (a)(9) of this section may result in negative points.~~

Reason: The change aligns these regulations with the proposed requirements in the CTCAC Regulations related to energy efficiency and minimum construction standards.

Reason: This new change is a technical correction that retains the existing basic building code requirements for bond-financed projects.

Section 5210(b)

(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).

Reason: The change reflects the updated term of At Risk Projects.

Section 5220(c)(2)

(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 **(50 years for Projects located on Native American Lands)**, ~~and in a Competitive Application Process 30 years~~, from the date 50% occupancy is achieved or the commencement of the CDLAC Qualified project period, whichever date is earlier;

Reason: The change to this section describing required contents of the bond regulatory agreement reflects the proposal in Section 5192 to require 55-year affordability for all QRRP Projects.

Reason: This new change is a technical correction that accommodates projects on tribal land.

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. 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 an application when rents are below federal set-aside limits and applicable state requirements. If the project is currently subject to Hold Harmless Rents, Applicant must provide the year the project was placed in service.~~

~~(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 (1/2) point.~~

~~(d) Gross Rents (5 points).~~

~~(1) Five (5) points will be awarded to Projects that are not subject to the use of Gross Rents but voluntarily do so 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; and in accordance with the California Tax Credit Allocation Committee's minimum requirements for utility allowance estimates, Title 4, Division 17, Chapter 1, Section 10322(h)(21).~~

~~(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.~~

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

~~(G) Two and one-half (2 1/2) points will be awarded to Projects which provide high speed internet or wireless "WiFi" service connection in each unit. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of 15 years, free of charge to the tenants, and available at the time of the project's placed-in-service date.~~

~~(k) Sustainable Methods (10 points maximum).~~

~~(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. For the purposes of this paragraph, "certification" by the Project Architect has the same meaning as set forth in Business and Professions Code Section 5536.26.~~

~~(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. For the purposes of this paragraph, "certification" by the Project Architect has the same meaning as set forth in Business and Professions Code Section 5536.26. 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 no irrigation, or 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 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).~~

~~(7) New Construction and Adaptive Reuse Projects: Points shall be awarded according to the California Tax Credit Allocation Committee's minimum requirements for energy efficiency programs, Title 4, Division 17, Chapter 1, Section 10325 (c).~~

~~(8) Rehabilitation Projects: Points are awarded based on the energy efficiency criteria described for Rehabilitation Projects in The California Tax Credit Allocation Committee regulations, Title 4, Division~~

~~17, Chapter 1, Section 10325(c).~~

~~(9) Compliance and Verification. The form of evidence shall follow that described in Title 4, Division 17, Chapter 1, Section 10325(c). 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.~~

~~(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.~~

(a) The following criteria will be used to evaluate and rank all Qualified Residential Rental Project applications. Each of the items in this section shall be memorialized in the Committee Resolution.

(b) Preservation and Other Rehabilitation Project Priorities (16 20 points maximum; New Construction Projects not eligible for these points). Preservation and Other Rehabilitation Projects. ~~Note: This covers the Preservation and Other Rehabilitation Pools because the Section 22 projects are not currently eligible for the Preservation Pool and the criteria of (3) are different than those currently employed in the Preservation Pool definition.~~ meeting the following criteria shall receive points in the highest scoring category only:

(1) An At Risk Project, or a project in which lower-income rent and income restrictions on at least 50 percent of the total units pursuant to a regulatory agreement with a public entity will terminate or be eligible for termination within five years of application with no other rent and income restrictions remaining, or any replacement or rehabilitation project approved by HUD pursuant to a Section 18 or 22 Demolition/Disposition authorization, or any project being rehabilitated under the first component of the HUD Rental Assistance Demonstration (RAD) Program shall receive 16 20 points.

(2) A project that meets at least one of the following shall receive 14 points:

~~(A) A replacement or rehabilitation project approved by HUD pursuant to a Section 18 or Section 22 Demolition/Disposition authorization;~~

~~(B) A project being rehabilitated under the HUD Rental Assistance Demonstration (RAD) Program; or~~

~~(C) (A) A project with a pre-2000 HCD loan that is being restructured pursuant to Section 50560 of the Health and Safety Code (AB 1699) that has not previously received an allocation of Low-Income Housing Tax Credits.~~

(3) A project that receives governmental assistance on at least 50 percent of the units pursuant to any of the following and that has not previously received an allocation of Low-Income Housing Tax Credits shall receive 6 points:

(A) Project-Based Section 8 or Rent Supplement,

(B) USDA Rent Supplement,

(C) Section 236 Financing,

(D) Section 221(d)(3) Financing,

(E) USDA 514 or 515 Financing, or

(F) Department of Housing and Community Development Financing (other than including AB 1699 projects that have previously received an allocation of Low-Income Housing Tax Credits).

(c) New Construction Density and Local Incentives (10 points maximum; Preservation Projects and Other Rehabilitation Projects not eligible for these points). A New Construction Project that meets any of the following shall receive 10 points:

(1) The local jurisdiction has approved the project pursuant to Section 65913.4 of the Government Code, at a density greater than that allowed by the site's zoning through the use of a density bonus allowed by Government Code Section 65915 or a local ordinance, or with concessions and/or waivers granted pursuant to Government Code Section 65915;

(2) The project is being developed at a per net acre density that meets or exceeds one of the following criteria:

(A) 100 bedrooms per net acre in a metropolitan county;

(B) 60 bedrooms per net acre in a suburban jurisdiction;

(C) 40 bedrooms per net acre in all other areas.

For the purposes of this paragraph, "net acre" is defined as the acreage within the parcel boundaries after subtracting any area affected by the dedication of public right-of-way, the presence of restrictive easements, and non-buildable areas. "Metropolitan county" and "suburban jurisdiction" shall have the

same meaning as in Section 65583.2 of the Government Code. Projects with land-use approvals obtained prior to January 1, 2022 shall earn full points in this category.

(3) The project is located in a city or unincorporated portion of a county for which HCD has designated the city or county, respectively, as pro-housing pursuant Section 65589.9(c) of the Government Code.

(d) Exceeding Minimum Income Restrictions (20 points maximum). A project shall receive points in either of the following manners:

(1) 2 points for each full percent that the average affordability of tax credit units is less than 60% of area median income subject to the Gross Rent definition; or

(2) 20 points if the average affordability of tax credit units is less than or equal to 60% of area median income, provided that at least 10% of tax credit units are restricted at or below 30% of area median income and an additional 10% of tax credits units are restricted at or below 50% of area median income, subject to the Gross Rent definition.

(e) Exceeding Minimum Rent Restrictions (10 points maximum). A project shall receive one point for each full percent that the average affordability of tax credit units is more than ten percent (10%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. This percentage shall be calculated separately for units of each bedroom count, and the score shall be based solely on the lowest percentage difference from the average adjusted rental rates of comparable units, with the results for each unit type weighted relative to the percentage of tax credit units of that type in the project, and the resulting percentage shall be used to determine the final point score. In cases where unit sizes of the same unit type vary, the smallest of these units shall be the basis for comparison. When family comparables are used in addition to senior comparables (outside the 1-mile radius) points will be calculated using the family comparables.

(f) General Partner and Management Company Experience (10 points maximum).

(1) A project shall receive general partner experience points in one of the following manners:

(A) The number of general partner experience points for which it is eligible pursuant to Section 10325(c)(1)(A) of the TCAC regulations.

(B) 7 points if the project is a joint venture between an entity which receives maximum general experience points pursuant to Section 10325(c)(1)(A) of the TCAC regulations and a PCWBE, provided that the partnership agreement (i) allocates a share of the developer fee, cash flow, and net sale proceeds to the PCWBE that is equal to or greater than the share to the entity with maximum general experience points and (ii) provides the PCWBE Developer an option to purchase the development.

(C) 7 points if the sole sponsor is a PCWBE that (i) is a general partner in at least one Low-Income Housing Tax Credit development that has received a certificate of occupancy, or if a rehabilitation project, completed rehabilitation, within five years of the date of application, (ii) submits the certification from a third party certified public accountant referred to in Section 10325(c)(1)(A)(i) of the TCAC regulations for that development, (iii) demonstrates to the satisfaction of the ~~Executive Director~~ **Executive Director** adequate in-house or contracted knowledge, skills, experience, and financial capacity to successfully develop, own and operate the proposed project, and (iv) completes training as prescribed by TCAC prior to a project's placing in service.

(2) A project shall receive management company experience points in one of the following manners:

(A) The number of management company points for which it is eligible pursuant to Section 10325(c)(1)(B) of the TCAC regulations.

(B) 3 points if the management company will be the PCWBE for which the project receives general partner experience points pursuant to paragraph (1)(C).

(g) Housing Types (10 points maximum; Preservation Projects and Other Rehabilitation Projects not eligible for these points). A **New Construction Project** ~~project~~ that meets any of the following criteria shall receive 10 points:

(1) The project meets the criteria for any of the housing types described in Section 10325(g) of the TCAC regulations. Points will be awarded only in one housing type, ~~except that acquisition and/or rehabilitation Scattered Site Projects may, at the applicant's election, be scored either in the aggregate or proportionately based upon (A) each site's score, and (B) the percentage of units represented by each site.~~

(2) The project meets the requirements of subdivision (c) of this section or is a New Construction Project

that obtained all land use approvals prior to January 1, 2022.

(h) Leveraged Soft Resources (8 points maximum). A project shall receive 1 point for each full percent that leveraged soft resources defraying residential costs represent as a percentage of total residential project development costs, except that a New Construction Project that receives points as a Large Family or Special Needs, or SRO project pursuant to the conditions specified in Section 5230(g) 5230(j)(1)(A) and is located in a High or Highest Resource Area as specified on the TCAC/HCD Opportunity Area Map shall receive 2 points for each full percent of leveraged soft resources. For purposes of this subdivision, leveraged soft resources shall have the same meaning as in Section 10325(c)(9) of the TCAC regulations, except that public contributions of off-site costs shall not reduce leveraged soft resources for purposes of this scoring category. ~~In lieu of any or all of the foregoing points available in this scoring category, a project may earn up to 8 points in this scoring category by earning up to an additional 8 points above the maximum points pursuant to Section 5230(i).~~

(i) Readiness to Proceed (10 points maximum). A project shall receive the number of points for which it is eligible pursuant to Section 10325(c)(7) of the TCAC regulations, except that the applicant shall commit to commence construction within 180 days of the bond allocation. Projects that receive the maximum number of points pursuant to this subdivision shall submit ~~evidence, within that the time period specified in Section 5100(3)(b)(i),~~ evidence that meets the requirements of Section 10325(c)(7) of the TCAC regulations. ~~of an executed construction contract, recorded deeds of trust for all construction financing (unless a project's location on tribal trust land precludes this), binding commitments for permanent financing, binding commitments for any other financing required to complete project construction, a limited partnership agreement executed by the general partner and the investor providing the equity, an updated TCAC Attachment 16, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice, if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and notice to proceed delivered to the contractor. If no construction lender is involved, evidence must be submitted within 180 days after the allocation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred.~~ Failure to meet the 180-day applicable due date shall may result in rescission of the bond allocation and/or negative points.

(j) Affirmatively Furthering Fair Housing (20 points maximum).

(1) A project shall receive points in only one of the following manners:

(A) 20 points if the project receives points as a Large Family project or Special Needs project pursuant to Section 5230(g) (except the Special Needs project shall have at least 50% of its units set aside as permanent supportive housing for the homeless), is located in a High or Highest Resource Area as specified on the TCAC/HCD Opportunity Area Map, and at least 10% of tax credit units shall be restricted at 30% of area median income and an additional 10% of tax credits units shall be restricted at 50% of area median income (except Special Needs projects shall be exempt from this 50% AMI requirement).

(B) 9 points if the project receives points as a Large Family project pursuant to Section 5230(g), is located in a Moderate (Rapidly Changing) or Moderate Resource Area as specified on the TCAC/HCD Opportunity Area Map, and at least 10% of tax credit units shall be restricted at 30% of area median income and an additional 10% of tax credits units shall be restricted at 50% of area median income. In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the TCAC regulations.

(C) 9 points if the project receives points as a Large Family project pursuant to Section 5230(g), is located in a Low Resource or High Segregation and Poverty Area as specified on the TCAC/HCD Opportunity Area Map, has income and rent restrictions a) with at least a 40% AMI spread between the lowest restricted unit, which shall be no lower than 30% AMI, and the highest restricted unit with at least 10% of the units at the upper end of the range, provided that these upper-end restricted rents are at least 10% below market rents, and if this condition is not achievable as evidenced by the market study, or if the Low Resource or High Segregation and Poverty Area in which the project is located is adjacent to a High or Highest Resource Area, the project shall be permitted to reduce the AMI spread from 40% to 30%, but in no case shall the upper-end restricted units drop below 60% AMI, or b) consistent with the restrictions of a public funding source that was awarded prior to December 31, 2021, with an average AMI of at least 55%, and either (i) the sponsor is one of the following: 1) a PCWBE that has maintained a headquarters or office within five miles of the project for a period of five years prior to the application; 2) a Community Housing Development Organization (CHDO) as certified by the local participating jurisdiction in which the QRRP will be located; 3) a sponsor who has previously developed affordable housing within the community in which the QRRP will be located in the past 20 years; or 4) a sponsor

who has continually, during the prior 10 years preceding the application date, provided educational, health or economic development services to the community in which the QRRP will be located; or (ii) the project is one of the following: 1) located within a Community Revitalization Area, or 2) the project is funded in part with an award from the California Department of Housing and Community Development prior to December 31, 2021. ~~[Note: The committee may want to review the definition of Community Revitalization Area in Section 5170.]~~ In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the TCAC regulations. (D) 9 points if the project does not receive points as a Large Family project pursuant to Section 5230(g) and receives the maximum points for exceeding minimum income restrictions pursuant to subdivision (d). In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the TCAC regulations.

(2) For purposes of subparagraphs (A) to (C), a project located in a resource area designated on the TCAC/HCD Opportunity Area Map as "Missing/Insufficient Data" shall be considered to have the designation of the adjacent resource area that shares the longest common boundary with the resource area in which the project is located.

(k) Service Amenities (10 points maximum). A project shall receive the number of points for which it is eligible pursuant to Section 10325(c)(4)(B) of the TCAC regulations, except that projects not meeting one of the housing types specified in 10325(g) of the TCAC regulations shall be able to choose the services provided without regard to the housing type conditions within the service amenity categories.

(l) Cost Containment (12 points maximum). A project shall receive 1 point for each full percent that the project's eligible basis is less than the project's CDLAC adjusted threshold basis limit, except that a New Construction Project that receives points as a Large Family, or Special Needs, or SRC project pursuant to the conditions specified in Section ~~5230(g)~~ 5230(j)(1)(A) and is located in a High or Highest Resource Area as specified on the TCAC/HCD Opportunity Area Map shall receive 2 points for each full percent that the project's eligible basis is less than the project's CDLAC adjusted threshold basis limit. For purposes of this subdivision, a project's CDLAC adjusted threshold basis limit shall be the project's threshold basis limit as determined pursuant to Section 10327(c)(5) of the TCAC regulations, except that the increase for deeper targeting pursuant to Section 10327(c)(5)(C) of the TCAC regulations shall be limited to 80%.

(m) Negative Points (no maximum).

(1) The Committee will may 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 may be deducted for each failure to fully utilize the leveraged soft resources, or an equivalent amount of substitute leveraged soft resources, 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, or is the result of voluntarily returning leveraged soft resources in excess of those needed to qualify for the requested points pursuant to Section 5230(h) due to the project being over-sourced. This deduction will may be assessed against the Project Sponsor for a period of up to two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(B) Ten (10) points will may 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 may be assessed against the Project Sponsor for a period of up to two (2) succeeding years (10 points each year) following the year Allocation was awarded.

(C) Ten (10) points will may 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 is consistent with the requirements of Section 5052(b), or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will may be assessed against the Project Sponsor for a period of up to three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

(D) Ten (10) points will may 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 may be assessed for a period of up to 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 paragraph (1) may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

Reason: The proposed changes wholly replace the current QRRP scoring categories. The following categories of the current scoring are eliminated: 1) use of gross rents (this is proposed in Section 5191 to become a threshold); 2) exceeding the minimum term of restrictions (proposed changes in Section 5192 would require a 55-year affordability term for all QRRP Projects in both open and competitive rounds); 3) community revitalization area criteria; 4) sustainable methods; 5) new construction and substantial rehabilitation projects; and 6) foregone eligible developer fee. Wholly new scoring categories include 1) density and local incentives for new construction projects; 2) general partner and management company experience; 3) readiness to proceed; 4) affirmatively furthering fair housing; and 5) cost containment. In addition, the changes alter the criteria of various other existing point categories. The new point scoring system would be as follows:

Preservation and Other Rehabilitation Project Priorities (10 points maximum). This point category seeks to prioritize among rehabilitation projects by offering projects in the Preservation or Other Rehabilitation Pools the following points:

- 10 points for a project meeting the At Risk definition or for a project outside of the At Risk definition in which lower-income rent and income restrictions on at least 50 percent of the total units pursuant to a regulatory agreement with a public entity will terminate or be eligible for termination within five years of application with no other rent and income restrictions remaining. Adding the latter type of project is intended to prioritize all projects eligible to convert to market rate within five years, even if not currently cited in the TCAC statutes which the At Risk definition cross-references.*
- 7 points for a project being rehabilitated under HUD Section 18 or 22, RAD, or AB 1699 for a pre-2000 HCD loan.*
- 3 points for a project that has never before received low-income housing tax credits and in which at least 50% of the units are assisted by specified federal or HCD programs.*

New Construction Density and Local Incentives (10 points maximum). This new scoring category seeks to encourage local governments to support affordable housing through density bonuses, streamlined reviews, and being prohousing in general. Projects meeting the New Construction definition may receive 10 points for any of the following:

- Receiving SB 35 streamlined approval*
- Obtaining a density bonus, concessions, or waivers pursuant to state Density Bonus Law or (for the density bonus only) a local ordinance.*
- Developing the project at a net density of 100 bedrooms per net acre in a metropolitan county; 60 bedrooms per net acre in a suburban jurisdiction; or 40 bedrooms per net acre in all other areas, as those terms are defined. Projects that obtained land-use approvals prior to January 1, 2022 are grandfathered in and receive full points.*
- Location in a city or unincorporated area of a county that HCD has identified as "prohousing."*

Exceeding Minimum Income Restrictions (20 points maximum). All projects may receive points for income targeting as follows:

- 2 points for each full percent that the average affordability of tax credit units is less than 60% AMI; or*
- 20 points if the average affordability of tax credit units is less than or equal to 60% AMI, provided that at least 10% of tax credit units are restricted at 30% AMI and an additional 10% of tax credits units are restricted at 50% AMI.*

Exceeding Minimum Rent Restrictions (10 points maximum). All projects may receive up to 10 points for each full 1% that the project's average rental rates are more than 10% below the average adjusted rental rates of comparable market-rate units.

General Partner and Management Company Experience (10 points maximum). This new scoring category seeks to enhance project completion, compliance, and permanent affordability by rewarding developer and manager experience while also promoting the ability of PCWBE's to gain experience. All projects may receive up to 7 points for general partner experience as follows:

- According to the TCAC 9% general partner scoring criteria plus one point.
- 7 points if an entity receiving maximum TCAC 9% general partner experience points joint ventures with a PCWBE, provided that economics are evenly split between the general partners and the PCWBE Developer has an option to purchase the development.
- 7 points if the sole sponsor is a PCWBE that has developed one tax credit project in the last five years that remains financially sound, demonstrates to the Executive Director's satisfaction adequate experience and financial capacity, and completes TCAC training.

In addition, all projects may receive up to 3 points for management company experience as follows:

- According to the TCAC 9% management company experience criteria.
- 3 points if the management company will be the PCWBE for which the project receives general partner experience points.

Housing Types (10 points maximum). All projects may receive 10 points for proposing one of the following housing types:

- A housing type eligible for points under the TCAC 9% Housing Type point category (i.e., Large Family, Special Needs, SRO, At-Risk, or Senior)
- A project that receives full points under the New Construction Density and Local Incentives above.

Leveraged Soft Resources (8 points maximum). In order to align the allocation of bonds with the funding decisions of other state and local public entities and to reward soft funding commitments from unrelated third parties, all projects may receive 1 point for each full percent that leveraged soft resources defraying residential costs represent as a percentage of total residential project development costs, using the TCAC 9% tiebreaker definition of leveraged soft resources, which is concurrently being amended to include recycled private activity bonds. To further incentivize higher resource area projects and recognize that high resource jurisdictions may devote fewer resources to affordable housing, a Large Family, Special Needs, or SRO project located in a High or Highest Resource Area receives two points for every full percent of leveraged soft resources. Finally, a project may earn all 8 points in this category by exceeding the cost containment metrics by an additional 8%, or in the case of eligible projects in Highest or High Resource Areas, by an additional 4%.

Readiness to Proceed (10 points maximum). In order to reward developments that are shovel-ready, all projects may receive up to 10 points according to the TCAC 9% readiness category point criteria (i.e., 5 points for enforceable financing commitments for all construction financing and 5 points for having obtained all local land use approvals). Applicants who receive full points in this category obligate themselves to commence construction with 180 days of the bond allocation subject to rescission of the allocation or negative points. Please note that Section 5190(b) of the CDLAC regulations continues to require local land use approvals as a threshold, such that all projects will score at least 5 points in this category.

Affirmatively Furthering Fair Housing (20 points maximum). This point category combines TCAC 9% tax credit site amenity scoring with incentives for the development of Large Family projects in higher resource areas and for achieving a broad range of incomes and other policy goals in Large Family projects in lower resource areas. All projects may receive up to 20 points as follows:

- 20 points for a Large Family project located in a High or Highest Resource Area with at least 10% of tax credit units restricted at 30% AMI and an additional 10% of tax credits units restricted at 50% AMI. TCAC site amenity points are not relevant.
- 9 points for a Large Family project located in a Moderate (Rapidly Changing) or Moderate Resource Area with at least 10% of tax credit units restricted at 30% AMI and an additional 10% of tax credits units restricted at 50% AMI. In addition, the project may receive up to 10 TCAC site amenity points.
- 9 points for a Large Family project located in a Low Resource or High Segregation and Poverty Area, if the project 1) has an average AMI of at least 55%, and 2) either the sponsor is a local Black-led Organization or the project is located within a Community Revitalization Area. In addition, the project may receive up to 10 TCAC site amenity points.
- 9 points for any non-Large Family housing type if the project achieves maximum points in the Exceeding Minimum Income Restrictions category above. In addition, the project may receive up to 10 TCAC site amenity points.

Service Amenities (10 points maximum). In order to incentivize appropriate resident services, all projects may receive up to 10 points for providing services consistent with the TCAC 9% service amenity scoring criteria.

Cost Containment (12 points maximum). In order to incentivize cost reductions where possible and stretch scarce bond allocations, all projects may receive up to 12 points for achieving cost efficiencies with respect to regional and project-specific benchmarks. To further incentivize higher resource area projects and recognize that such projects are likely to have higher costs, a Large Family, Special Needs, or SRO project located in a High or Highest Resource Area may receive up to 12 points for achieving cost efficiencies that are 50% of the regional and project-specific benchmarks. CDLAC would calculate cost efficiency by comparing a project's eligible basis to its TCAC threshold basis limit with the following modifications:

- The threshold basis limit increase for structured parking is increased to from 7% to 10%, but to receive the increase at all the structured parking must occupy an area equal to at least 80% of the area of the residential buildings.
- The threshold basis limit increase for deeper targeting is limited to 80%.
- Projects utilizing Type I and Type III construction receive an additional threshold basis limit increase of 15% and 10%, respectively.

Negative Points (no maximum). This scoring category is retained from the current regulations without change.

Reason: The new changes proposed address the following:

Preservation and Other Rehabilitation Project Priorities (new 20 point maximum up from 10 points). In response to public comment, Staff is proposing to increase this point category to offset a corresponding removal of eligibility for these projects under the Housing Type category in recognition that existing projects have limited flexibility to meet the housing type criteria, potentially producing an outcome where the most at-risk or critical projects are passed over by projects that by coincidence meet an existing housing type. Also recognized as qualifying as "at-risk" due to the public benefit delivered is any replacement or rehabilitation project pursuant to HUD's Section 18 or 22 programs as well as a project being rehabilitated pursuant to the first component of RAD. Finally, concerning AB 1699 projects, priority is being given to those which have never received an allocation of tax credits over those that have in recognition of the likely public benefit associated with bringing those development into the tax credit program.

Housing Type. In response to public comment, this scoring category is being revised to only apply to New Construction projects due to the reasons stated above.

Leveraged Soft Resources. In response to public comment, this section is being amended to allow for Special Needs projects that serve as permanent supportive housing for 50% of the total units to receive the same treatment as large-family projects in High and Highest Resource Areas in recognition of the State's significant investment to address homelessness as well as the public benefit potentially available for these residents in areas of opportunity. A corresponding change is also being proposed in the Cost Containment category. Concerning the provision to allow projects that achieve leverage points by obtaining additional cost containment, mixed public comment was received both for and against this concept. Although this provision is removed from this draft, Staff is interested in the Committee's perspective on this issue and sees value in restoring the provision in recognition of the directives in AB 83 to incentivize cost containment.

Readiness to Proceed. This change is a clean-up provision that removes duplicative and potentially conflicting language and instead refers in total to the TCAC regulations.

AFFH. The changes in this section start with requiring Special Needs projects to be at least 50% permanent supportive housing in order to obtain the maximum points when located in the High and Highest Resource Areas. Additionally, Staff is proposing to exempt Special Needs projects that serve the homeless from the higher income targeting requirements. Concerning the income-targeting requirements in the Low Resource and High Segregation and Poverty Areas, Staff is removing the 55% AMI minimum requirement and returning to the previously approved Committee framework that requires a spread of at least a 40% AMI difference between the lowest targeted units and the highest targeted units, subject to market conditions. Also proposed is a grandfather clause that recognizes the backlog of publicly-funded projects that likely have pre-

existing income targeting requirements that are unable to meet these new provisions. Finally, and in response to multiple public comments, the qualifications for the types of sponsors and projects that may earn points in the Low Resource and High Segregation and Poverty Areas is expanded to recognize various geographic differences as well as pre-existing funding commitments from HCD.

Service Amenities. In response to public comment, this section is amended to account for projects that don't meet one of the TCAC housing types to allow freedom to select service amenities that are appropriate for their respective populations served.

Cost Containment. As previously mentioned, this section is being amended to allow for Special Needs projects that serve as permanent supportive housing for 50% of the total units to receive the same treatment as large-family projects in High and Highest Resource Areas.

Negative Points. In response to public comment, Staff is proposing to make technical amendments to this section that are more in line with TCAC's policies and to give the Executive Director and the Committee flexibility when imposing the severe consequence of negative points in a competitive funding environment.

Reason: In response to public comment, the new proposed changes address the following:

Preservation and Other Rehabilitation Project Priorities: The changes in this scoring section are technical corrections that recognize Section 18/22 and RAD projects as eligible for the full 20 points by removing them from the 14 point category. Clarity is also provided that New Construction Projects are not eligible for this scoring category.

New Construction Density and Local Incentives: The technical change in this scoring category makes allowance for projects that either "meet or exceed" the specified density. Clarity is also provided that Preservation and Other Rehabilitation Projects are not eligible for this scoring category.

Exceeding Minimum Income Restrictions: The changes in this scoring section clarify that units restricted "at or below" the required income targeting levels are permissible.

Exceeding Minimum Rent Restrictions: The change to this scoring category is meant to add specificity to the methodology to be used when calculating the average affordability of the project relative to comparable market rents.

Housing Types: Clarity is provided with this change that Preservation and Other Rehabilitation Projects are not eligible for this scoring category.

Leveraged Soft Resources: The change to this section is meant to reduce what is currently an administrative burden at TCAC to constantly assess and adjust leverage when off-site improvements are present. While the utility of this practice has some value at TCAC to avoid manipulation of its tie-breaker, CDLAC's proposed tie-breaker will disadvantage projects that include a significant amount of off-site improvements in their development budget.

Readiness to Proceed: The change in this section provides for the readiness deadline to be met pursuant to Section 5100(3)(b)(i) which allows for the Executive Director to randomly assign bond issuance deadlines of either 180 or 194 days to allow for lender/investor/issuer capacity concerns. This change will allow CDLAC's readiness requirements to be consistent with TCAC's long-standing practices.

Affirmatively Furthering Fair Housing: The changes in this scoring section attempt to add clarity for projects that are proposed in Low Resource or High Segregation and Poverty Areas by specifying what is required when the proposed rent and income targeting at the upper-end of the range begins to conflict with the programmatic requirement to establish rents that are at least 10% below existing market conditions. More specifically, a project in such a condition, or one that is located in a Low Resource/High Segregation and Poverty Area that is adjacent to a High or Highest Resource Area, may reduce the AMI spread range from 40% to 30% so long as the upper end of the range does not drop below 60% AMI. The language also clarifies that when measuring the low end of the range, a floor of 30% AMI shall be used, subject to exceptions for pre-existing funding commitments.

Negative Points: The change to this section addresses a potential system abuse by requiring projects that return leveraged soft resources after an award to at least retain the amount that would have been needed to qualify for the points requested in the initial application. The new language also recognizes the permissibility of substituting leverage soft resources which is consistent with TCAC practices.

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 Rural~~ Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for ~~Mixed Income Rural~~ Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable shall be awarded an Allocation from the ~~Mixed Income Rural Project~~ Pool. Applications for ~~Mixed Income Rural~~ Projects not receiving an Allocation will not be eligible for consideration for an Allocation under subdivisions (b), ~~or~~ (c) or (e) of this section.

(b) Applications for ~~Rural Preservation~~ Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for ~~Rural Preservation~~ Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable shall be awarded an Allocation from the ~~Rural Project Preservation~~ Pool. Applications for ~~Rural Preservation~~ Projects not receiving an Allocation pursuant to this subdivision ~~are will not be~~ eligible for consideration for an Allocation under subdivision (a), (c) or (e) of this section.

(c) Applications for Other Rehabilitation Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Other Rehabilitation Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the Other Rehabilitation Pool. Applications for Other Rehabilitation Projects not receiving an Allocation pursuant to this subdivision will not be eligible for consideration for an Allocation under subdivisions (a), (b) or (e) of this section.

(d) Applications for PCWBE Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for PCWBE Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the PCWBE Pool. Applications for PCWBE Projects not receiving an Allocation pursuant to this subdivision shall be eligible for consideration for an Allocation under subdivisions (a), (b), (c), and (e) of this section.

(e) Applications for Qualified Residential Rental Projects that are not Mixed Income New Construction Projects, exclusive of Rural 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 after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the Qualified Residential Rental Project New Construction Pool in the following manner:

(1)(A) Set Aside application selection. Except as provided in (B), beginning Beginning with the top-ranked application from the Homeless Set Aside, subject to the conditions in Section 5231(e)(1)(B), followed by the Extremely Low/Very Low Income Set Aside, and the Mixed Income Set Aside, the highest scoring applications in each Set Aside shall be awarded an Allocation pursuant to the procedures in Section 5231(f). If the last project allocated in a Set Aside requires more than the bonds remaining in that Set Aside, such overages will be subtracted from that Set Aside in determining the amount available in the Set Aside for the subsequent allocation round. If bonds within a Set Aside remain unallocated at the end of an allocation round they will be added to the subsequent round amounts in the same Set Aside. In the final allocation round of the year, the allocations within a Set Aside shall not exceed the amount of bonds available in the Set Aside. A project that meets the criteria of both the Homeless Set Aside and the Extremely Low/Very Low Income Set Aside shall be eligible for an allocation from either Set Aside. All New Construction Projects, exclusive of Rural Projects, that do not receive an allocation from a Set Aside shall be eligible for an allocation from their respective geographic region pursuant to paragraph (2).

(B) For purposes of the Homeless Set Aside only, applications for projects in which 100% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) of the TCAC regulations at affordable rents consistent with Section 10325(g)(3) of the TCAC regulations shall be awarded an Allocation prior to any other application eligible for the Homeless Set Aside provided that such projects earn at least 95% (rounded down to the nearest whole number) of the maximum available points pursuant to Section 5230.

(2) Geographic region application selection. Bonds available in the New Construction Pool that are not reserved to a Set Aside shall be allocated to the highest ranking applications according to the geographic allocation described in Section 5022. If the last project allocated in a region requires more than the bonds remaining in that region, such overages will be subtracted from that region in determining the amount available in the region for the subsequent allocation round. If bonds within a region remain

~~unallocated at the end of an allocation round they will be added to the subsequent round amounts in the same region. In the final allocation round of the year, the allocations within a region shall not exceed the amount of bonds available in the region. Projects receiving an allocation in the Rural, Preservation, Other Rehabilitation, or PCWBE Pools or in the Homeless, Extremely Low/Very Low Income, and Mixed Income Set Asides shall not be counted towards the geographic apportionments.~~

~~(3) In the final allocation round of the year, any bonds remaining in any ORRP pool, Set Aside or geographic region shall be allocated to the highest ranking New Construction Project or Projects, exclusive of Rural Projects. Any such amounts shall not be added to the respective ORRP pool, Set Aside, or geographic region in the following year, ~~not nor~~ shall any allocations pursuant to this paragraph be subtracted from the geographic allocations in the following year.~~

~~(4) At the last allocation meeting of the year, the Committee shall establish a waiting list of new Construction Projects, ~~exclusive of Rural Projects~~, that have not received an allocation in the final allocation round, ordered from highest to lowest ranking. In the event that allocations are returned after the final allocation meeting and prior to the end of the calendar year, the Executive Director may allocate bonds to projects on the waiting list in order.~~

(f) If the last project allocation in a Pool, Set Aside or geographic region requires more than the bonds remaining in that Pool, Set Aside or geographic region, such overages will be subtracted from that Pool, Set Aside or geographic region in determining the amount available in the Pool, Set Aside or geographic region for the subsequent allocation round. In no case will the last project to be allocated in a Pool, Set Aside or geographic region receive an Allocation unless at least 80% of the requested Allocation for that project is remaining in that Pool, Set Aside or geographic region for that round. No project that is unable to satisfy this condition shall be skipped in favor of awarding a project that meets this condition. If bonds within a Pool, Set Aside or geographic region remain unallocated at the end of an allocation round, they will be added to the subsequent round amounts in the same Pool, Set Aside or geographic region. In the final allocation round of the year, the allocations within a Pool, Set Aside or geographic region shall not exceed the amount of bonds available in the Pool, Set Aside or geographic region.

~~(g) 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) cost-adjusted Bond and State Credit Allocation per bedroom-adjusted units targeted at or below 100% AMI, so long as such units are rent restricted and regulated for a period of at least 30 years.~~

~~(1) The cost-adjusted Bond and State Credit Allocation shall be calculated by subtracting the product of the unadjusted Bond and State Credit Allocation request and the sum of the statewide basis delta for the county in which the project is located and the higher resource area bonus from the unadjusted Bond and State Credit Allocation request. ~~Thirty~~ At least ten days prior to the first application deadline of each calendar year, the Committee shall publish the statewide basis delta for each county, which shall represent the percentage difference between the two-bedroom 4% tax credit threshold basis limit for the county and the lowest two-bedroom 4% tax credit threshold basis limit for any county in the state as those limits are determined by TCAC pursuant to Section 10302(rr) of the TCAC regulations, except that the percentage difference shall not exceed 30%. A New Construction Project that receives points as a Large Family or Special Needs or SRG project pursuant to the conditions specified in Section ~~5230(g)~~ 5230(j)(1)(A) and is located in a High or Highest Resource Area as specified on the TCAC/HCD Opportunity Area Map shall receive a higher resource area bonus equal to 20%.~~

~~(2) To calculate a project's per bedroom adjusted units, the Committee shall first multiply the number of units of each bedroom count by the adjustment factor for units of that bedroom count. A project's per bedroom adjusted units shall be the sum of each of these products. The adjustment factors shall be:~~

~~(A) .9 for a studio unit.~~

~~(B) 1 for a 1-bedroom unit.~~

~~(C) 1.25 for a 2-bedroom unit.~~

~~(D) 1.5 for a 3-bedroom unit up to no more than 30% of the total units, then such additional units shall be counted as 2-bedroom units~~

~~(E) 1.75 for a 4-bedroom or larger unit up to no more than 10% of the total units, then such additional units shall be counted as 2-bedroom units~~

~~(F) 2 for units greater than 4 bedrooms~~

~~(3) For Allocations made in 2022 and beyond, the provisions in this Section (f) shall be amended to a formula which will measure the total amount of State of California investment in the Project relative to the public benefit produced by the Project.~~

Reason: The changes to this section reflect the revised pools and new set asides proposed in Section 5020 and determine the order in which the Committee would make allocations. The

changes also specify that projects may only compete in one of the Rural, Preservation, Other Rehabilitation, and New Construction Pools but that Persons of Color / Woman-Owned Business Enterprise (PCWBE) Projects may compete in the PCWBE Pool and one other Pool. Within the New Construction Pool, a project may compete in both the Homeless Set Aside and the Extremely Low/Very Low Income Set. All projects in the New Construction Pool that do not receive an allocation from a Set Aside are eligible for an allocation from their respective geographic region. Projects receiving allocations outside of the New Construction Pool or in any of the New Construction Pool Set Asides are not counted against regional allocations.

With respect to the Set Asides and geographic regions, in all but the last allocation round of the year CDLAC would make full allocations to the next ranking project as long as any amount of allocation remained available in the Set Aside or region (i.e. the \$1 rule). If the last project receiving an allocation requires more than the bonds remaining in that Set Aside or region for that round, the overage would be subtracted from that Set Aside or region in the subsequent allocation round. If bonds within a Set Aside or region remain unallocated at the end of an allocation round they would be added to the amount available in the Set Aside or region in the subsequent round. In the final allocation round of the year, the allocations within a Set Aside or region could not exceed the amount of bonds available in that Set Aside or region, and remainder allocations in any Pool, Set Aside or region would be allocated to the next ranking project from the New Construction Pool irrespective of Set Asides or regions. In addition, in the last award meeting of the year, CDLAC would establish a waiting list of projects in the New Construction Pool in order of ranking from the last application round to which the Executive Director would allocate any returned awards.

For purposes of the Homeless Set Aside only, the changes give absolute priority within the Set Aside to 100% homeless projects regardless of score or tiebreaker.

Lastly, the changes to the CDLAC tiebreaker seeks to include the amount of bonds requested along with any request for California state tax credits while adjusting the total to reflect to at least some extent project cost differences based on regional location and bedroom size and to further incentivize specified project types in higher resource communities. The numerator of the ratio is known as the cost-adjusted Bond and State Credit Allocation request. For each project, CDLAC will subtract from the project's Bond and State Credit Allocation request [(A) below] the product of the project's Bond and State Credit Allocation request and an adjustment factor. The adjustment factor is the sum of: 1) the "statewide basis delta" for each county [(B) below], which is the percentage difference between TCAC's two-bedroom 4% tax credit threshold basis limit for the county and the lowest two-bedroom 4% tax credit threshold basis limit for any county in the state, capped at 30%; and 2) a 20% higher resource area bonus [(C) below] for Large Family, Special Needs, or SRO New Construction projects located in High or Highest Resource Areas. The denominator of the tiebreaker ratio, to be known as bedroom-adjusted units [(D) below], weights each unit from .9 to 2 based on the number of bedrooms and sums these weightings. The formula is represented mathematically as:

$$(A - (A \times (B+C)))$$

Reason: The new changes proposed to this section are mostly technical in nature, but of note, Staff is proposing to create a new subsection (f) that clearly specifies the process by which allocations will occur in various Pools, Set Asides and geographic regions. Additional edits are made to reflect the requirement that Special Needs projects must be at least 50% permanent supportive housing to qualify for the tie-breaker incentive, and SRO projects are removed from consideration for the incentive due to no specific requirements to serve special populations. Finally, caps are placed on the number of 3 and 4 bedroom+ units that receive adjustment treatment in the tie-breaker in order to reduce the incentive to build an abundance of larger units simply to improve a project's tie-breaker score.

Reason: The changes to Section 5231(e)(1)(A) and (B) are technical amendments that are intended to clarify the process of ranking and funding of applications in the set-asides, especially with regard to the treatment of projects in the Homeless Set Aside. The change in Section 5231(e)(4) striking the language concerning Rural Projects is meant to allow such projects to be eligible for funding from the waiting list, should they score sufficiently high enough. Currently, Rural New Construction projects are not eligible to compete anywhere other than the Rural Pool, and this change will give such projects a final opportunity to compete, especially if the Rural Pool is reduced from previous levels. The next change to this section clarifies the income targeting

required in order for a unit to be eligible for consideration in the tie-breaker calculation. The targeting requirement is set at 100% AMI or below and requires units to be restricted for at least 30 years, and while units at this higher AMI level are not eligible to receive a new allocation of tax-exempt bonds in a competitive system, CDLAC Staff feels that additional "missing middle" rent-restricted units represent public benefit for income-earners that can't afford market rents but are unable to qualify for units restricted at tax-credit levels. The final change to this section provides CDLAC/TCAC staff additional time to publish the statewide basis delta prior to the first application date in order to better facilitate improvement of the current TCAC threshold basis limit methodology as well as future annual data updates.

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 seventy-five~~ million dollars ~~(\$50,000,000)~~ ~~(\$75,000,000)~~ 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 seventy-five~~ million dollars ~~(\$50,000,000)~~ ~~(\$75,000,000)~~ 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 seventy-five~~ million dollars ~~(\$50,000,000)~~ ~~(\$75,000,000)~~ may seek a waiver from the Committee based on the following factors:

- (1) The Qualified Residential Rental Project qualifies as an ~~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 seventy-five~~ million dollars ~~(\$50,000,000)~~ ~~(\$75,000,000)~~ 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.

Reason: The change reflects the updated term of At Risk Projects

Reason: The new change recognizes public comment in support of larger, more efficient projects and reduces the CDLAC Staff processing burden related to regular exception requests to the allocation limit.

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 QRRP~~ Pools as follows:

Studio and SRO:	\$522,000
One-bedroom:	\$544,000
Two-bedroom:	\$580,500
Three-bedroom:	\$638,500
Four or more bedroom:	\$671,500

(b) Private Activity Bond allocation awards cannot exceed ~~60%~~ ~~55%~~ of the aggregate depreciable basis plus land basis. ~~In determining compliance with this test, CDLAC staff may rely on the legal or tax opinion submitted with the application.~~

Reason: This change maintains the applicability of CDLAC's bond allocation limits to all QRRP projects, reflecting the proposed changes in Section 5020 to the QRRP Pools.

Reason: The new changes implement a 55% cap in bond request to stretch resources as far as possible and also recognizes public comment related to previous and unnecessary project disqualifications due to the complexity of the calculation and encourages CDLAC staff to rely on the legal or tax opinion as the basis to meet the test.

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).

Reason: This change deletes a cross reference that is no longer applicable given the proposed changes to the scoring categories in Section 5230.

Date: December 17, 2020

To: CDLAC Committee Members

From: Judith Blackwell, Executive Director

Re: Exempt Facility Regulation Changes

This memo and the attached proposed regulation changes related to exempt facilities supplements the material you received yesterday and is for use during the upcoming CDLAC meeting scheduled for December 21.

The California Pollution Control Finance Authority (“CPCFA”) uses the private activity volume cap allocated by CDLAC to finance qualified waste and recycling projects as well as other projects to control pollution and improve water supply. CPCFA Staff has requested various changes to the CDLAC regulations which CDLAC Staff finds to be acceptable. The proposed regulation changes follow this briefing memo, and if the Committee finds them to be acceptable, they will be processed concurrently with the regulation changes proposed for CDLAC’s multi-family housing program.

Proposed CDLAC Regulation Changes related to Exempt Facility Projects

Section 5000 Definitions

“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.
- A community or county affected by a state of emergency within California and declared a disaster by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture, or declared to be in a State of Emergency by the Governor of the State of California.

Reason: CPCFA suggested this to help address applicants affected by the COVID-19 pandemic as well as other disasters such as wildfires, flooding and landslides.

Section 5052. Forfeiture of Performance Deposit.

(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~~ extension upon a showing that the request aligns with an extended allocation and a waiver upon showing 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.

Reason: CPCFA is requesting that the performance deposit forfeiture date be extended to align with any extended allocation.

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 \$1,200 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) 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) 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.

(e) Applications for Allocation for Exempt Facility Projects will not be charged supplemental filing fees when applicants seek to move the hearing date for allocation later in the calendar year, as long as there are no material changes in the project or financing structure of the application.

Reason: CPCFA staff requests an exemption in this section for Exempt Facility projects awarded a sub allocation by CPCFA to indicate that any additional CDLAC filing fees not be collected, and to allow projects to change CPCFA Board meeting dates without additional fees or penalties provided that there have been no material changes to the project.

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)~~ One hundred eighty (180) 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 and the conversion of Bonds to Mortgage Credit Certificate authority.

Reason: CPCFA requests to extend the expiration of the allocation for Exempt Facility projects from 90 days to 180 days.

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 prior to Board Committee approval. Applicants are not required to have obtained ministerial approvals at the time of Application.

Reason: CPCFA is requesting that the Exempt Facilities Applications for Allocation be allowed to be submitted by a project sponsor (Applicant) and deemed acceptable for submittal with the condition that all final discretionary use permits will be received prior to Committee approval.

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.

Reason: CPCFA requests that this section be clarified as to what it pertains to in the CDLAC application for Exempt Facility projects as this section is referenced in connection with public benefits. There are many factors to consider, yet if it is specific to CPCFA, it should consider pollution control (our mission) rather than general public benefit.