California Debt Limit Allocation Committee
Jesse Unruh Building
915 Capitol Mall, Room 587, Sacramento, CA 95814

January 15, 2021

Meeting Minutes

OPEN SESSION

1. Call to Order and Roll Call

State Treasurer Fiona Ma called the California Debt Limit Allocation Committee (CDLAC) meeting to order at 11:00 a.m. Anthony Wey read the phone script.

Members Present: Fiona Ma, CPA, State Treasurer
Gayle Miller for Gavin Newsom, Governor
Anthony Sertich for Betty T. Yee, State Controller
Tia Boatman Patterson, California Housing Finance Agency (CalHFA)
Gustavo Velasquez, Department of Housing and Community Development (HCD)

2. Approval of the Minutes of the December 21, 2020 Meeting (Action Item)

Treasurer Ma stated that the minutes from the December 21, 2020 meeting were not available at this time. They were received late from the transcriber and are under staff's review.

3. Executive Director's Report (Informational Item)

Executive Director Judith Blackwell thanked all the parties involved in revising CDLAC's regulations over this past summer, and stated that the regulations are on the CDLAC website. She stated that next Tuesday, CDLAC staff will continue the process, working with the Office of Administrative Law (OAL). Once OAL posts the regulations on their website, the public will have up to five days to provide their comments. OAL has up to 10 calendar days to review and decide on the revised rules.

Yvonne Martinez Watson with the Sierra Club delivered a public comment on Agenda Item 7, opposing the funds that will be used for the desalination project and noted those funds would be better used elsewhere.

Lydia Ponset from the public called in to express her position on the bond application from Poseidon, noting it should be denied. She stated the $1.1 billion requested would be better spent directly on affordable housing. She also mentioned water issues and encouraged the state to work with tribal leaders to fix these issues.

4. Determination and Adoption of the 2021 State Ceiling on Qualified Private Activity Bonds (Action Item)

Program Manager Sarah Lester introduced Agenda Item 4 and stated that there was an increase to $110 per capita in the adjusted for inflation volume limit on private activity bonds for calendar year 2021. This is an increase from 2020's $105 per capita. The US Census Bureau estimated the state's 2020 population as 39,368,078. The estimate for 2021 population will be released later. The volume cap based on these numbers is $4,330,488,580, an increase of $181,705,165.

Treasurer Ma stated these were preliminary numbers and will be adjusted based on new data they will receive in the coming months from the Internal Revenue Service (IRS).

MOTION: Mr. Sertich moved to approve the volume cap, adopting the 2021 state ceiling. Ms. Miller seconded and the motion passed unanimously via a roll call vote.

5. Regulations Update (Informational Item)

Ms. Lester stated staff was in the process of finalizing the documents being filed with OAL. The regulation document for OAL will be posted to the CDLAC website later today. Technical edits to the regulations have been made to the document voted on in December, and these. OAL will determine whether to proceed with the regulations in 10 days.

Mr. Sertich was concerned about CTCAC threshold basis limit changes and how they have affected the scoring in the new CDLAC regulations. He requested that staff keep an eye on it. Higher cost counties may be more at a disadvantage than with the old basis limits.

6. Carryforward Update (Informational Item)

Program Manager Richard Fischer provided a chart on the largest carry forward issuers for the 2020 cap in Committee materials (E-Binder). By law, the allocation must be carried forward by the issuer by filing of an IRS Form 8328 the earlier of February 15, 2021 or the date of the first issuance of private activity bonds by the issuer in 2021. In addition to the bond amounts allocated to specific projects, $79,385 of 2020 private activity bond volume cap remained unallocated as of December 21, 2020. CDLAC awarded this previously unallocated lump sum to CalHFA to be combined with 2020 volume cap awarded to CalHFA for specific projects. CalHFA is expected to add the lump sum amount to its carryforward amount for 2021. The $79,385 lump sum is the only allocation that was not designated for specific projects.

Treasurer Ma stated that the carryforward amounts will be updated once the 8328 forms are filed with IRS.

Mr. Fischer stated that was correct.

7. Consideration and Adoption of the Apportionment of the 2021 State Ceiling among the State Ceiling Pools (Action Item)

Ms. Lester stated that based on California's population and the per capita multiplier, the state ceiling is $4.3 billion. At the December 21, 2020 meeting staff was directed to create a pool called Black Indigenous and Other People of Color (BIPOC). The apportionment for the $4.3 billion are as follows:

Qualified Residential Rental Pool (QRRP) for New Construction - $3,170,915,293
Rural New Construction Pool - $111,914,657
Preservation Pool - $313,361,041
Other Rehabilitation Pool - $22,382,931
BIPOC Pool - $111,914,657

Staff was also instructed to create set-asides for the New Construction Pool. The New Construction Pool will be further sub allocated to the following:

$559,573,287 for the Homeless Set-Aside

$671,487,944 for the Extremely Low Income/Very Low Income (ELI/VLI) Set-Aside
$447,658,630 for the State-Funded Mixed Income Set-Aside
$1,492,195,432 for the Geographic Regions

For the Industrial Development Financing Authorities (IDBs), there is a set-aside of $10,000,000, and for the Exempt Facilities Pool the set-aside is $590,000,000. Staff also expects to allocate $200,000,000 to the XpressWest Train project. If the Committee does not approve the Train project, the funds will be returned to the Committee for re-allocation.

Staff recommended apportionment of these 2021 state ceiling pools, and referenced charts in the E-Binder that further included apportionment by allocation round. Ms. Lester stated that any further changes to the 2021 state volume cap due to changes in the state's population will be adjusted in the Exempt Facilities Pool.

Mr. Sertich stated staff should focus on allocating the 4% bonds as much as possible and keep the allocation for the XpressWest Train on the table, noting that Brightline XpressWest Train has been a great partner. He appreciated their request to reduce the allocation from $600,000,000 to $200,000,000 and recommended that the rest of the $4.1 billion funds go to the QRRP Pool. The Governor's budget allocated an extra $100 million to CAEATFA for its sales and use tax exemption program, which is a more efficient use of funding for those projects rather than through the bonds. A huge federal subsidy is lost when bonds are allocated to a non-tax credit project.

Treasurer Ma opposed the change put forth by Mr. Sertich, stating that CPCFA uses the CDLAC bond allocation for utility projects like garbage, wastewater, recycling that are also needed in the state. These kinds of infrastructure projects are linked to housing. If there isn't the infrastructure in place for the housing, that slows down housing production.

Mr. Sertich agreed that utility projects are also very critical to the state but believed that the Committee should leverage as many resources as possible while freeing up scarce state resources like bonds to build housing.

Ms. Miller stated that state money is more complicated than this discussion. She pointed out that the state's General Fund commitment to housing this year is unlike anything that has ever been seen before, putting more money into housing and infrastructure. She stated the Committee would continue to monitor whether there is more volume cap available and if there is, it will go back to housing. Her second point was regarding where the allocations go throughout the year. Currently staff recommends [three] funding rounds with percentages of 40/40/20, and the administration recommends percentages of 30/35/35 for reasons related to the updated basis limits. Ms. Miller requested that Mr. Velasquez speak to the pausing of HCD's programs to better align with CDLAC.

Mr. Velasquez agreed with Ms. Miller's 30/35/35 allocation request and expressed, as noted by the State Auditor, the need to have a system that is more coordinated and harmonized. As a result, HCD will be reviewing the regulatory changes that were made to CDLAC and CTCAC over the next few months to update their programs accordingly.

Ms. Boatman Patterson stated 40/40/20 is too high and somewhere between 30 and 40 would be a better way to distribute the funds. She wanted to ensure the priority is given to shovel ready projects, and not have shovel ready projects waiting until the later rounds.

Mr. Sertich stated he agrees with the 30/35/35 balanced approach, and having a shovel ready approach. He noted the need to define how to allocate unused funds in each round. Mr. Sertich suggested a waterfall option within a round between different pools such as the Preservation and other Rehabilitation Pools, or unused funds flowing into the geographic regions.

Treasurer Ma stated she wanted to hear from the program's stakeholders on their opinions regarding the proposed changes.

Mark Stivers with the California Housing Partnership stated that the Governor's Budget augmentations for housing are appreciated, and the $3.7 billion allocated to rental housing. Mr. Stivers noted that housing generates tax credits and he encouraged Treasurer Ma to work with the State Legislature over time to find other ways to support those beneficial non-housing projects. His staff calculated that each billion dollars in bonds reduces interest rates by about one-quarter percent for non-housing uses, and $10.7 million would buy down that rate in the same way. This results in $700 million tax credits. The more the state spends on state funded housing production, the greater federal tax credits they get in return. Concerning the issue of how the allocations are split amongst rounds, he was in support of the 30/35/35 distribution. This distribution accommodates HCD's pause.

Caleb Roope with The Pacific Companies stated the working group worked directly with Gina Ferguson from CTCAC to amend the basis limits, the basis limits are in better shape as a result of their collaboration. There were a few consequences in terms of CDLAC's regulations on the tie breaker, but he noted they were minor and can be remedied with regulation changes at future Committee meetings. On the cost containment scoring category, the working group will examine whether a minor change is needed to reflect a boost in the scoring for the various pools. Mr. Roope stated there was more work to be done but the results from the current changes were satisfactory. He anticipates money spilling into future CDLAC funding rounds, coming from rounds with unspent funds. He stated CTCAC has used this feature with their 9% program for some time and it works quite effectively. This will mitigate the front loading issue that was brought up earlier.

Charming Evelyn with Sierra Club Water Committee was opposed to the allocation of any funds to Poseidon benefiting at the cost of ratepayers. She raised water contamination issues and stated the funds should be redirected towards affordable housing.

Mr. Sertich and Treasurer Ma both agreed that the Poseidon project is not a priority this year.

Mr. Fischer confirmed that CPCFA did not receive an application from Poseidon this year.

Andrea Clements with the Environmental Justice organization stated that CDLAC should not be awarding funds to a polluter, especially one that will privatize water. She stated that the Poseidon project will impact water rates and affect vulnerable communities disproportionately. She emphasized the need to redirect the funding towards affordable housing.

Susan Jordan with the California Coastal Protection Network expressed opposition to the Poseidon project, stating it was a very financially risky project and it has not been able to secure any buyer interest letter. The project would not bring any additional water to Orange County but in fact replace affordable drinking water in the metropolitan district. She stated that the funds should be redirected towards affordable housing projects or other exempt facilities that provide a strong and undisputed public benefit. She noted that company has many assets around the globe and would have no issues building the project using their own money.

Treasurer Ma thanked everyone for their comments and noted that CPCFA staff will be keeping a close eye on the progress of this project moving forward.

Michelle Fowle with the Indivisible Los Angeles Coalition expressed opposition to the Poseidon project accusing them of capitalistic greed and stated that these taxpayer funded dollars should be redirected towards affordable housing.

Tony Acion, a member of an action network and business owner in the Los Angeles area, expressed opposition to the Poseidon project due to its negative environmental impacts and due to humanitarian rights issues.

Mark Littman with the Culver City Committee on Homelessness expressed outrage that the Poseidon project was considered for any sort of funding through 2022 and stated that the funding needs to be redirected towards building affordable public housing. He notes that over 60,000 people were homeless on the streets on Los Angeles. He requested the Committee make the funding available to building affordable housing.

Alice Talcott with MidPen Housing expressed support for the Committee's proposal on the 30/35/35 allocation plan, she believes it will better control the flow of tax credits into the equity markets. Regarding the basis limits, she believes the new limits are going to disadvantage the tie breaker score for projects in coastal communities but is something that can be addressed at future meetings.

Eugenia from Los Angeles demanded the Poseidon project be taken off any future agenda and stated the funding should go towards building affordable housing to house homeless people like her brother. She also expressed concern over humanitarian issues related to the project.

Doug Shoemaker with Mercy Housing thanked Ms. Ferguson and the working group for their hard work and expressed the need to correct the issue related to the basis limits. He expressed opposition against putting too much money into the first round of funding.

Michelle Otta, a business owner, expressed concern over funds not being allocated to the mortgage certificate program in both 2020 and 2021. She has been working with the program since 1996 and notes the funds were being utilized every year and does not understand why the program is not being funded.

Andre Perry with the City of Los Angeles expressed support for a more even allocation to the QRRP over the three rounds. He was in support of the recommendation for the 30/35/35 allocation.

Mr. Sertich addressed some of the concerns over the Mortgage Certificate Program and noted that in order to maximize housing in the state, it requires a much more comprehensive approach to solving the problem. He agreed that there needs to be a more equitable distribution and will look into the issue going forward.

Mr. Velasquez stated that the Committee has committed nearly $560 million to the Homeless Set-Aside. Governor Newsom has also proposed $750 million in funds for HCD's pivotal Homekey program that has already created nearly 6,000 permanent units of housing for homeless individuals. The additional funding will allow them to double the production this coming year. The investments being made are clear on what the Committee's goals are.

Ms. Miller thanked the CDLAC and CTCAC staff for their basis limit work.

Treasurer Ma recommended going a little higher for the purposes of front loading; her preferred distribution is 35/35/30.

Mr. Sertich recommended splitting the allocations into thirds for the purposes of a fair and equitable distribution amongst all three round.

Ms. Miller and Treasurer Ma agreed on the compromise presented by Mr. Sertich.

Ms. Boatman Patterson asked if this change would preclude them from being able to do any changes in the second round of funding if they wanted to reallocate funds from the third round.

Treasurer Ma stated that the Committee ran into a similar situation last year due to COVID so being flexible to changing circumstances would be beneficial.

Mr. Sertich stated the Committee should be cautious about changing the allocation within rounds because it could throw off developers who have shovel ready projects.

Mr. Roope stated that according to the new regulations, whatever is not spent in the current round would spill over into the next round. If there is still unspent money in the last round, a waiting list is then established, which will fund the projects down the list in order of highest scores. Unapproved projects from the first and second rounds must reapply in the third round in order to be considered for the waiting list. The waiting list is only for the final round of the year. Mr. Roope also mentioned some protections in the round that are similar to CTCAC's 9% program – 80% of the funding a project requests must be available in the pool or set-aside. If the money is not there, the funding will spill into the next round. The waiting list will take care of any remaining funds at the end of the year.

The Committee thanked Mr. Roope for providing the additional clarity.

MOTION: Ms. Miller moved to approve staff's recommendation of the changes to the pools and recommended moving the allocation limits for the next three rounds to 33.3% each throughout the year. She wanted to place this as a discussion item on the next Committee Meeting so they can further discuss. Mr. Sertich seconded and the motion passed unanimously via a roll call vote.

8. Determination and Adoption of the 2021 State Ceiling on Qualified Public Educational Facility Bonds (Action Item)

Ms. Lester stated that similar to the state ceiling, the Qualified Public Educational Facility Bonds (QPEFB) also has a volume cap limit each year and is calculated similar to the state ceiling but with a multiplier of $10, which equates to $393,680,780 for the 2021 program year. These funds can be used for K-12 schools both public and charter, and cannot be used for community college. It is not a "use it or lose it" pool; the funds are carried forward for up to three years. However, the funds can only be used for QPEFB projects. Ms. Lester stated that staff recommends to adopt the volume cap for QPEFBs as $393,680,780 for the 2021 calendar year.

Treasurer Ma stated that the California School Finance Authority is looking at ways to use the QPEFB funding since staff has not been taking advantage of it.

MOTION: Mr. Sertich moved staff's recommendation adopting the volume cap for QPEFBs as $393,680,780. Ms. Miller seconded and the motion passed unanimously via roll call vote.

9. Consideration and Adoption of the Revised 2021 Calendar

Treasurer Ma stated that although the Committee already adopted a calendar in December, after relooking at it with stakeholder input they realized there were several issue outstanding that were not anticipated. Staff released a more detailed calendar, clarifying meeting dates and application due dates. There are extra application dates for non-QRRP projects due to tax-exempt projects like CPCFA who need application deadlines in their regulations. Committee meeting will be held on Wednesdays and application dates will be held on Thursdays.

MOTION: Ms. Miller moved to approve the updated CDLAC calendar, Mr. Sertich seconded and the motion passed unanimously via a roll call vote.

10. Consideration of Appeals

Ms. Blackwell stated there were no appeals on the agenda.

11. Public Comment

Mr. Sertich stated it is unclear as to when allocations made can use the 4% credit rate, and when bonds had to be issued to use the 4% floor. There needs to be a better management approach from the staff side in order to pull more equity into projects. There is no guidance issues on this yet but Mr. Sertich wanted to make sure staff stays on top of it.

Ms. Blackwell stated staff is on top of the issue and has convened a meeting with the National Council of State Housing Agencies (NCSHA) to discuss. With regard to any applications that came in this year and forward, these will be using the 4% credit rate floor.

Mr. Roope gave a statement on the two different issues, one regarding the 4% credit floor, noting that the IRS's position has not yet been determined. The other issue to be considered at a future committee meeting is supplemental allocation in general. He provided some historical context on the topic and noted the working group will pick up the issue and make a recommendation on it – same with the 4% floor issue.

Treasurer Ma asked the working group to take up the supplemental issue as well.

Mr. Roope stated they would pick it up and come up with a recommendation.

Ms. Boatman Patterson raised an issue regarding the revised definitions of both new construction and preservation. There may be a group of projects that are market rate and unregulated that could be converted into affordable housing. Staff will need to determine where these projects fit in. They may fit into the Other Rehabilitation Pool but the Committee should consider having a policy conversation surrounding whether to encourage affordable housing by acquiring market rate housing, rehabilitating it and then regulating it, and whether they want to use the bond program to help accomplish it. Currently the CDLAC regulations do not allow it but it may be something to consider in the future.

Mr. Roope stated they could take up this policy issue as well. He mentioned it is an opportunistic way to turn market rate housing into affordable housing and is cheaper than building ground up construction.

12. Adjournment

Treasurer Ma adjourned the meeting at 12:25 p.m.