



## California Debt Limit Allocation Committee

915 Capitol Mall, Conf Rm 587  
Sacramento, CA 95814

June 15, 2022

### Committee Meeting Minutes

#### 1. *Agenda Item: Call to Order and Roll Call*

The California Debt Limit Allocation Committee (CDLAC) meeting was called to order at 1:03 p.m. with the following committee members present:

Voting Members: Fiona Ma, CPA, State Treasurer  
Anthony Sertich for Betty T. Yee, California State Controller  
Gayle Miller for Governor Gavin Newsom

Advisory Members: Zachary Olmstead for Gustavo Velasquez for the Department of Housing and Community Development (HCD)  
Kate Ferguson for Tiena Johnson Hall for the California Housing Finance Agency (CalHFA)

#### 2. *Agenda Item: Approval of the May 25, 2022, Minutes*

**MOTION:** Ms. Miller motioned to approve the May 25, 2022, minutes. Mr. Sertich seconded the motion.

The Chairperson called for public comments.

Public Comments:

None.

Motion passed unanimously via roll call vote.

#### 3. *Agenda Item: Executive Director's Report - Presented by: Nancee Robles*

Nancee Robles, CDLAC Interim Executive Director, stated that under general business, CDLAC held a public workshop on June 6, 2022, to hear stakeholders and public comments on the upcoming regulations. She stated that staff also reviewed hundreds of written requests and suggestions. The comment period is open until June 20, 2022. She said that if anyone would like to comment on the regulation process, they may send an email to [CDLAC@treasurer.ca.gov](mailto:CDLAC@treasurer.ca.gov). The regulations for Round Two are expected to be complete and presented to the committee on July 20, 2022.

In Legislative news, Ms. Robles stated that she attended the 2022 Affordable Housing Symposium in Washington, D.C. on June 15, 2022, where she heard from key Congressional Staff, Industry Leaders and Advocators on the latest issues impacting affordable housing. She stated that among the speakers



## California Debt Limit Allocation Committee

was former committee advisor Tia Boatman Patterson. Along with the Treasurer's Legislative Advisor, Kasey O'Connor, Ms. Robles went to Capitol Hill and spoke with staff members of the Offices of Senator Feinstein, Cortez Masto, Representative Thompson, and Speaker Pelosi. They discussed the importance of reducing the 50% test and the potential consequences of the global minimum tax and left those conversations with hopes of very good outcomes.

Treasurer Ma thanked Ms. Robles and asked if anyone had any questions.

Gayle Miller stated she had no questions but re-emphasized how important it was to reduce the 50% test to 25% and how that would be such a significant difference in terms of increasing supply.

The Chairperson called for public comments on the Executive Director's report.

There were no public comments.

#### 4. *Agenda Item: Presentation of Strategic Plan Final Report by Sjoberg Evashenk – (Informational)* *Presented by: George Skiles*

George Skiles, with Sjoberg Evashenk, presented on the Strategic Plan Final Report for CDLAC and the California Tax Credit Allocation Committee (CTCAC). He stated that the project objectives included developing or facilitating a strategic plan with the objective of evaluating steps the organizations can take to address the State Auditors November 2020 findings, to better align CTCAC and CDLAC with organizational resources and staffing regulations to achieve California's housing objectives, and to identify additional improvements necessary to effectively and efficiently execute the statutory responsibilities of both committees. He said that during this process they interviewed almost every employee. They evaluated a lot of organizational documents and processes, facilities, etc. They really tried to identify with these two organizations, if they were to merge, essentially, what steps would need to take place to make that process efficient. He stated that there are a lot of inefficiencies that could be resolved through that process. The objectives and goals that they have established are applicable either way.

Mr. Skiles stated that they based the goals of the strategic plan on the organizations' vision, mission, values, and strategic objectives. They developed these and understand the direction the agency wants to go. They know that both agencies want to be more technology driven, want to improve the technology, and want to be more responsive to stakeholders, streamline business processes internally to ensure a more streamlined process for stakeholders that are dealing with both agencies on perhaps a single project. They then identified key goals, objectives, and strategic initiatives as they developed the plan. They identified seven key goals, as follows below. He walked the Committee through the seven goals and identified some of the strategic initiatives that they have identified as part of these goals.

**Goal #1: Adopt Revised Mission, Vision and Organizational Structure.** Mr. Skiles stated that as a merged organization the first goal would be to adopt a revised mission, vision, and organizational structure. They recommend that if there is a merged organization that the name of the agency be modified. They believe that the State Auditor's recommendation was to eliminate CDLAC and to merge or reassign those responsibilities to CTCAC. If that is the case, they recommend a modified



name of the agency so that it reflects a single program, which would be up to the agency. They modified the mission as well to make it broader than just focusing on each mission of the current agencies focus on the specific programs of those agencies in order to maximize the public benefit by fully and efficiently issuing all bond and tax credit allocations, providing a customer centered and streamline process for processing applications, and continue to increase the wealth of all Californians. He said that a lot of this is borrowing from the language of the current vision and mission statements of the current agencies. These values are reflective of the values currently in place on the CTCAC website and have not changed. The organizational structure also would need to be modified. Their assessment did not identify significant efficiencies in terms of overlaps within the agency. He said there will be some certainly on the administrative functions as there would no longer be a need for two Executive Director's. Administrative support would still be needed but streamlined. He stated that the work of CDLAC and the tasks that are being carried out are different than CTCAC, but there is an over-lap in terms of the stakeholders. He said that there is also overlap in terms of the projects and applications. However, the review of those applications will still need to occur. They envision CDLAC basically merging into the organization, and that the efficiencies to be gained would be more related to business processes.

**Goal #2: Implement Effective Information Technology Resources.** Mr. Skiles stated that he thinks that this is perhaps the greatest barrier to both agencies in efficiently reviewing applications and just performing their work, not just on the intake and application review side, but on the compliance side as well. He said that information Technology should facilitate the work and help manage the workflow of an organization, maintain data that can be searched, and can also be utilized going forward. The current situation with Information Technology that is in place is an impediment to either agency being able to carry out their work. He said that their objectives are to implement a database that better aligns technology resources for both agencies, establish data and document management protocols that ensure the consistent treatment of and ability to analyze the official records, ensure data integrity, and implement tablets or similar technology to allow field personnel the ability to analyze, document, and record findings in real-time rather than obtaining the information then having to re-enter that information subsequently. He stated that they believe that the first step in doing this is to issue a request for proposals and that there are commercial systems that currently exist. Other state agencies may also utilize these systems and it would certainly make sense to coordinate with those other agencies but issuing a request for proposals and understanding what the market looks like will be the first step for the agency to take. Also, to develop and implement data management protocol that ensures the consistent treatment of data is important because currently, much of the data is manual, paper, and what is electronic is duplicate data entry just to get it into the system. The systems are not functional. The ability to get information out of the system in a useful way that helps produce management reports and performance reports so that management knows how the committee is performing rather than just documenting project specific data is.

**Goal #3: Ensure Appropriate Staffing Infrastructure.** Mr. Skiles stated that the objectives are to align staffing resources to reduce redundancies; reduce employee turnover; and establish a right-size program staffing. He stated that this is particularly applicable with the merger of the organizations because there is overlap in applications in what CDLAC is reviewing and what CTCAC is reviewing. As an example, you have two individuals who are reviewing applications that are very similar but



applying different regulations and communicating separately with stakeholders. Reducing this overlap will be a key area of efficiency, so will be the impact that it has on the stakeholders by having just one person who will be reviewing the application. This is a key recommendation. Also, reducing employee turnover is critical, as there are a lot of staff vacancies. The key is right-sizing staff. They have some key initiatives: The first is the assigning of the 4% tax credit allocations to the staff that are evaluating bond allocation applications. There is a significant overlap between these two processes. Developing a long-term remote work policy that allows for flexibility in where staff work is critical as there is a shortage of workspace in the Treasurer's Office building. There is a group within CTCAC that already works remotely away from Sacramento, perhaps not as much during the pandemic, but the compliance group is on-site at projects on a routine basis. They, therefore, believe that there should be some consideration of a remote work policy that would help in this regard. He stated that a cost-benefit analysis can be conducted of having a Southern California office as the CTCAC committee is finding it difficult to recruit and retain people and that this could open up a labor market in Southern California and may be beneficial or useful to the committee as a lot of the work that they do is already down in Southern California. This will also reduce travel as well. You could evaluate the appropriateness of the agency's classification structure – particularly in Compliance and also consider alternatives to achieve parity with peer agencies. This recommendation is primarily related to the Compliance group and looking at using other classifications to do this work may help with retention. He stated that a staffing study to determine the right level of staffing resources needed is necessary. There is a growing workload in the committees. He said that on one-side that workload is demand driven because of development and on the Compliance side it is projects that are developed and have to be onsite inspected for 55 years. For every project that is added there is an increased workload that is not going away. He said that since there is going to be a workload increase over time the question is: How does an organization right-size itself? He does not believe that now is the right time to determine what the right-size level of staffing is because Information Technology solutions should streamline the work that staff currently performs significantly. He said that if this alone helps streamline and make the work being performed more efficiently, this will change how work is done and would change the level of resources that are needed long term. So, this assessment needs to be completed a couple of years out after this is put in place. Associated with improvements with Information Technology, business processes will be realigned to correspond with that technology. When this happens then evaluating a staffing study should occur regarding the staffing resources needed to keep up and maintain the workload and to work on the business of the organization. This not only addresses backlogs; it also is keeping up. He further stated that currently, staff, especially management, are spending a great deal of their time doing that and there is a lot of work to do in dealing with application compliance. They believe that the staffing study going out a few years maybe a couple years after the implementation will really be necessary and the most effective.

**Goal #4: Ensure Sufficient Operating Revenues and Fund Balances.** Mr. Skiles stated that what they know is the fund balance is strong, the committees are operating with a positive cash flow, which helps. He said that this means that there are some resources that can be allocated to some of these improvements, but there is a question that over 55 years compliance on-site inspections have to continue, so there are no ends to the program in sight, but you never know. He said that you have to have enough balance to fund this activity for 55 years. He said that he doesn't know if the fund



balance is sufficient, but he also said that he does not have any indications that it is not sufficient. He said that when Information Technology improvements are in place and when a staffing study is done it would make sense, at that point, to look at rates and determine what the fund balance needs to be going forth to fund that activity for 55 years and to maintain the Information Technology resources and staffing levels that will be required. This is a phased approach, looking at staffing and then looking at rates and fund balances to ensure that the organization is right-sized. These are the four primary goals of what is needed going forward for both committees.

**Goal #5: Standardize and Formalize Key Business Processes.** Mr. Skiles stated that on the CTCAC side we have seen a lot of this already, a lot with compliance and it is already documented; training programs are in place and so forth. He said that on the CDLAC side it is less formalized. He said as the committees merge together, standardizing and formalizing business processes will be important and will need to be reevaluated, so that they can be incorporated with information technology and new business processes. He said that these processes need to be documented and formalized with the goal of achieving consistency in practice and performance among what are now two groups in mitigating the loss of institutional knowledge through staff turnover. He stated that there has been a lot of staff turnover over the past year. Some of the key initiatives will be mapping the to-be process. They have done some mapping of the as-is process, but as information technology is being implemented, mapping the to-be process and standardizing both of these processes as well as developing training programs for more than just the Compliance group is essential.

**Goal #6 Achieve Consistency Through Updated Permanent Regulations.** Mr. Skiles stated that this has been on the radar for some time. He believes that CDLAC in particular has been working with this quite a bit over the past year and six months and their recommendation is if CDLAC is merged with CTCAC that those regulations be as consistent as possible to the existing CTCAC regulations, and then to make tracking systems for these regulations. He said that there is also a need to monitor emergency regulations to make sure that they do not expire and that there are permanent regulations put in place before the emergency regulations expire.

**Goal #7 Develop a Meaningful Performance Measurement and Management Reporting System.** Mr. Skiles stated that this, along with data management, is among the most significant failures of the current information technology that is being used. Currently, there is not the ability to extract data in a way that makes for informed management decisions. He said that there is a record of a project but not a record that informs management of how efficient the process is, how long it takes to process applications, or where the application is in the process. He said that making these processes, etc., more transparent via information technology will be a significant improvement. It will identify and provide various input measures of what kind of resources are going into some of these activities and will track it over time so that productivity can be seen and what resources are being spent on what portions of the application and allocation processes. He said that trends of the activities over time could be identified, the number of FTE's per application for instance. It also makes it more transparent for stakeholders to understand where they are in the process. He said that a lot of time goes into responding to requests for information. Extracting data and coming up with management reports will save a substantial amount of time and should be easier to do.



## California Debt Limit Allocation Committee

Mr. Skiles discussed key milestones, which is still in draft. He said that they have several initiatives that identify processes throughout and map them out over the course of the next three years. An information system will be key, and a lot of the other issues depend on that happening. He said that the process is front loaded in the course of this upcoming fiscal year and then key procedures, or key initiatives will occur towards the end in three years. He said things like the staffing study and fee study would take place at the end of this process after some of these other processes have occurred. He asked if there were any questions.

Mr. Sertich stated that he really appreciates all the work that Mr. Skiles put in on this and the recommendations are outstanding. He thinks, in the beginning, that Mr. Skiles stated that merging the two committees is being looked at. Mr. Sertich asked if other solutions are being looked at, maybe hybrid arrangements. His concern is the committees have different voting representations, the CDLAC committee has a broader oversight whereas CTCAC is designed just to manage housing. He said that, maybe, leaving CDLAC to continue their broader oversight while having CTCAC to take on all the bulk of the housing, including multi-family, may be the better solution for structure. He asked if that was considered.

Mr. Skiles stated that their approach looked at what would be required if there was a merger but also what work needs to be done regardless of a merger. He said he believes the partial merger presents complications because right now affordable housing is top priority, which might not always be the case. He said that it is hard to imagine that this will change anytime soon, but other priorities might cause CDLAC's priorities to shift. He said that if there is a split organization, then there isn't an organization that is responsible for the allocation. He said that he doesn't know how that kind of decision making would occur if the functions of CDLAC and the authority of CDLAC to allocate is split. He said that he thinks this presents a logistical challenge. He said that this has to be broadened in order for the merge because CDLAC does more than just affordable housing. He thinks that is the key, balance.

Mr. Sertich said that one of the things in statute right now is CDLAC does more than affordable housing. He thinks all of the efficiencies need to be done. He just doesn't want to lose track of the other piece that is not affordable housing.

Treasurer Ma asked if other state housing agencies split things up into two committees.

Mr. Skiles stated that he does not know how other state agencies perform these responsibilities.

Mr. Sertich stated that a lot of other state agencies do have separate bond allocation processes, but they also have multi-family block grants too and that generally, the bonds are allocated in aggregate to agencies.

Mr. Skiles stated that in that scenario he understands the authority remains with CDLAC and CDLAC through a block grant basically delegates the authority to allocate specific projects.

Ms. Miller asked Mr. Skiles if he checked IRS regulations to see if anything being proposed conflicts with IRS regulations and requirements.



## California Debt Limit Allocation Committee

Mr. Skiles stated that he did not find anything in the IRS regulations that would prohibit a merger. He said that they focused on this primarily because this state office was very much aligned with the State Auditor's recommendation. He did not see anything in the IRS regulations that would preclude a merger or present any kind of a barrier to the Treasurer's Office or the committees doing a merger and he said that he believes the IRS regulations for the most part put the responsibilities on the states and does not prescribe anything further.

Ms. Ferguson said that she thinks that different states do things in different ways.

The Chairperson asked if there were any other questions from the committee members.

Ms. Miller said that she did not necessarily agree with everything in the State Auditor's report. She asked if the State Auditor's report was the starting point for Mr. Skiles instead of coming in and looking at it with fresh eyes, if that was the direction he was given.

Mr. Skiles stated that no, that was not the direction, but part of the project was looking at what would be necessary to achieve a merger. He said that their focus was; if the committees were to merge, what they believe is necessary to make that effective. He said except for goal #1, all other goals were designed specifically to be applicable to both committees if they were to operate separately because of the work that they do, the efficiencies that can be gained by the implementation of the recommendations. He said that he believes there are efficiencies to be gained through a merger, but those efficiencies will be relatively minor in terms of some administrative staffing and also the business process changes that would occur by merger. In terms of efficiency in the merger, he said that is really where there are benefits. He said that if there were not two separate committees the benefits would be better realized and that if the committees were to merge, the procurement or purchasing of a single information technology system could be achieved. He said that their goal was to present goals that could be implemented in either scenario.

Ms. Miller stated that she was confused about what Mr. Skiles was charged with and what the direction was and what is trying to be solved.

Mr. Skiles stated that the project objectives were to align the organizational resources, staffing, and regulations.

Treasurer Ma stated that she thinks one of the complaints was that the tax committee and the bond committee did not really talk to each other and even though there is overlap in the regulations, the terminology was not correct, also deadlines, timing, meetings, everything was not functioning and then when she started, there were two Director's, one at CDLAC and one at CTCAC and it did not jell. She said that is when it was determined that having one Executive Director who manages both committees, would be a lot smoother. She asked for input from those in the room on whether it is working better having one Director overseeing both and trying to merge the two without an official merger. She said that she believes the State Auditor said that in their report, saying that it might be more efficient since it was confusing and one hand was not talking to the other, and then the Consultant was asked to determine if it makes sense to merge the two committees. She said that she thinks Mr. Skiles is saying that it does make sense to merge, but she also asked to hear from the



## California Debt Limit Allocation Committee

stakeholders. She asked if it is working better under one Director or the way it was done before and opened up the discussion up for public comment.

Caleb Roope, representing the Pacific Companies, stated that he has been in the programs for over 20 years. He said that programs never had to face competition before and that is the major difference, so in the context of competition what has been accomplished has been great. He said that the consolidation of the regulations to streamline them more and align them was critical. He thinks having a single Director is better, as it consolidates the decision making of appeals and things like that. From his point of view, given the competitive nature change, this has been a major improvement and a better outcome statewide. He thinks the thing that the stakeholders often have issues about are just policy issues such as which projects are going to be successful and in terms of operationally speaking, he thinks there has been significant improvements in the programs, especially since you lost some key staff. He said that given all the factors, it has been remarkable that they have been able to be as productive as they have been in these past two years.

Pat Sabelhaus stated that he would simply repeat what Mr. Roope just said. He thinks there has been a marvelous improvement in terms of the workload that the staff has been able to take on and get the projects reviewed appropriately and to make the awards in a manner in which they are done so timely. He said he felt for a long time that the crunch was so bad on staff and that turnover may have caused even more aggravation for those people who were left to handle the workload. He thinks the merger being considered would be a good move and would be an efficiency move. He stated it would help both the applicants that struggle with the regulations in complying with all the “nuts and bolts” that go into what is becoming a more complicated system. That is what happens when systems hang around for years and years. He said that in 1987, when they did their first batch of projects, the application was about 10-12 pages and now they are up to a binder or so. He said all of that is acceptable as they refine and improve the process in the way that they are going to allocate the money and the priorities that they give. He said that the recommendation for a merger is a good move and that it will help both the committee and staff and it will also help the applicants get through the process more efficiently than before.

Ben Barker, representing California Municipal Finance Authority agreed with what Mr. Sabelhaus and Mr. Roope and thinks the one thing that shows is the number of applications now is probably more than what they were doing in a full year previously. He said the systems and processes seem to be working better as they apply a lot and are applying in one round with more applications than they would previously have applied for in a full year and that things are being done very efficiently now. He thinks that having one Director over both groups has made a big difference.

Ms. Ferguson asked if the merging is reliant on what the boards of the two committees do, or a staff operational improvement versus a board merger.

Mr. Skiles stated that was correct - it is about how the staff is carrying out their work.

Treasurer Ma asked if they have to go to the legislature, if they are officially going to merge.

Mr. Skiles replied that Treasurer Ma is correct.





## California Debt Limit Allocation Committee

Ms. Ferguson asked for clarification; that to merge operational efficiencies at the operational level is without merging the board and having to go to the legislature. The work is fundamentally and operationally going to continue the improvement that we are hearing about from the stakeholders and is not conditioned on having the Committees merge.

Treasurer Ma stated that they have been doing that for the last year and half but when they do CTCAC regulations it is very quick and when we do CDLAC [regulations] it goes through the OAL process, so they are still operationally efficient but there are still differences between the two. We can leave it like this or do something officially in the legislature. She said the consultant's role was to present it to us. She said that seeing no more questions she thanked Mr. Skiles and moved on to item number five.

**5. Agenda Item: Consideration of Appeals for Round 1 Award of Allocation to Qualified Private Activity Bonds for Qualified Residential Rental Projects – (Action Item)**

*Presented by Emily Burgos:*

Emily Burgos confirmed that there were no appeals and the item was skipped.

**6. Agenda Item: Recommendation for Round 1 Award of Allocation to Qualified Private Activity Bonds for Qualified Residential Rental Projects – (Action Item)**

*Presented by: Emily Burgos*

Ms. Burgos stated that this item is a recommendation for Round One QRRP awards. She recognized DC Navarrette for this milestone of no appeals and no changes to the final list. Mr. Burgos stated that Mr. Navarrette has been working to improve the way they work projects, pre-award, and that his hard work has made it possible for them to reach this milestone. She said that she knows there are some very strong supporting players that Mr. Navarrette would like to recognize. She thanked Mr. Navarrette. Mr. Burgos recommended the award of 68 projects for a total of \$1.6 billion in allocation, which is just over \$1.4 billion of current year volume cap and just over \$167 million is carry forward from previous years.

**MOTION:** Ms. Miller motioned to approve and Mr. Sertich seconded the motion.

The Chairperson called for public comments.

Public Comments:  
None.

Motion passed unanimously via roll call vote.

**7. Agenda Item: Discussion of Future Supplemental Allocations – (Action Item)**

*Presented by: Emily Burgos*

Mr. Burgos stated that after the last CDLAC meeting it was obvious that we should be engaging discussion at the committee level to possibly develop an off-the-shelf product for supplemental allocation. She shared a presentation to drive the conversation. She said that staff is supportive of an



## California Debt Limit Allocation Committee

off-the-shelf product for the supplemental application process. In the last meeting it was mentioned that some guidance would be needed from the committee and the public. She said that the issue at hand is that right now a lot of the projects that are requesting supplemental allocations are requesting it because they are hitting their 50% test. What this means is that all projects are required by the IRS to finance 50% of their eligible basis with bonds. She said that many of the projects are having trouble meeting this 50% test. The 50% test is measured at multiple times during the project. The first time it is measured is at the close of construction, so all of the projects that have yet to issue bonds are having issues meeting this 50% test at closure for their construction bond. She said this is why there is such a push for the [2021] round three projects need for supplemental allocation in order to close. There are other projects that have already closed that are now trying to meet the 50% test at the second point, which is the conversion to permanent financing, which means they need to complete the 50% test before they can be placed in service. Mr. Burgos stated the projects were able to issue bonds, however; since costs have risen they are no longer meeting the 50% test and are facing the risk of losing their entire project that is near completion unless they can get supplemental allocation. Some of the factors that were discussed in the last meeting that are affecting these items are cost increases, timing delays, materials price escalations, and labor shortages. She said that many of these factors were triggered by the COVID pandemic and do not seem to be waning anytime soon. She said time is of the essence to dole out supplemental allocations to these projects. Staff is seeking guidance from the Committee that will be included in the regulations that will be presented at the next meeting. Specific areas of guidance sought are Parameters for Supplemental Awards; Preventing Abuse/Gaming; Supplemental Application Review; and Source of Allocation for a Supplemental Pool. She said there have been a couple of suggestions for parameters for supplemental awards that are: Cap at a percentage of the original allocation; cap at a percentage of the eligible basis, and different limits for pre-issuance and post issuance of projects. She asked if the committee had any questions, opinions or initial thoughts.

Mr. Sertich said that he appreciated the presentation and that it was really helpful. He said that he thinks with the current CDLAC regulations capping the overall bond allocation at 55% of the basis cost, it does make sense to leave that in there for the supplemental allocation. He doesn't think that a supplemental should be provided if it goes over that amount and thinks that it is important, especially for those projects that are pre-issuance, that the supplemental allocation is not too large or it could give applicants the idea that projects can come in for the supplemental application event that allows them to score better on the original application. He said that both of these items may be necessary to some extent but still thinks there is a difference between a post-issuance and a pre-issuance. Post-issuance if you do not get those projects done and then close, the bond issuance cannot be reclaimed as issued. He thinks that pre-issuance and post-issuance should be treated differently.

Ms. Ferguson stated that she agrees with Mr. Sertich and, from her perspective, as a practitioner and an issuer, she agrees with the comment that pre and post issuance are different. She said that it is important to know what phase the project is in. Ms. Ferguson said that most of the projects that are going to need supplemental that are post-issuance from the 2022 round that were just approved are going to be entering the CDLAC round under one condition and are exiting this round under a very different market. She said that she likes the fact that we address the 50% test, so what marginal



## California Debt Limit Allocation Committee

amount is needed to close a construction loan. She said they need more than a deal that is rolling into a permanent loan because their costs at the permanent phase should be pretty nailed-down. She said that deals that came in this year at 51% going up to 55% at this point would not feel like gaming the system because of the market impact and the volatility of the market right now. She thinks that capping it at a percentage of the original allocation could be tricky because if that is chosen you can easily get over 55% and what is most relevant is to measure what if they really need protection from missing the 50% test. She said she thinks there is a priority to deals that are coming up on 8609's to get the units out and filled because supplemental allocation is not obviously overly restricted to the area in which you received the initial allocation.

Ms. Burgos stated that the following suggestions are not being recommended and are being put out for discussion as possible ways to prevent abuse and gaming. She said there is a kind of a penalty approach to these suggestions. The first one is if supplemental is requested then there is a reduction in the developer fee. The second is if supplemental is requested then negative points are assessed. Third, if supplemental is requested then there is a reduced tiebreaker in future rounds. Fourth, there is a penalty fee based on a percentage of the supplemental request. She said that non-punitive suggestions were to set the bond request as a determined percentage of the eligible basis so there is no opportunity to low-ball. Ms. Burgos stated that the final suggestion is to require a partial forfeiture of the performance deposit if 90% or more of the bond allocation is not issued, currently this figure is set at 80% and that if the amount is raised to 90% it penalizes folks that leave more than 10% on the table.

Ms. Burgos stated another proposal is that the supplemental application review process be streamlined, yet staff will still need to review supplemental requests to determine if they meet the criteria set forth by the Committee. She said this will be more than a letter but far less than a full application. Staff will open-up applications in batches based on the date of the original allocation award. Staff also recommending that preference be given to post issuance projects for these supplemental awards.

Ms. Burgos stated the source of allocation for the supplemental pool is proposed to be the \$45,924,170 in the MIP after Round 1. The \$46 million was not left on the table, but they did have about \$60 million in carry-forward, so they did not over-ask for what they needed, they asked for the right amount. However, she said since MIP benefited from some carry-forward that was front-loaded from that pool, there were no applications affected for Round Two. MIP money that was left over could be used to fund the supplemental allocation pool. She said staff would report at each meeting the status of the pool, awards, and queue, then can assess as the year goes on whether or not more allocation is needed to be drawn in the supplemental pool. This will give staff time to receive applications for Round Two and make assessments.

Ms. Ferguson said that in Round One there were identified amounts for each of the pools. She asked if there was left-over Round One money in the other categories and posed a suggestion; instead of taking it all out of the MIP pool, consider routing the supplemental allocations through the pools they came from. If they have a MIP supplemental that came from 2021 or this year (2022) that would run through the MIP pool, before they take that \$46 million and put it out to the General Pool.



## California Debt Limit Allocation Committee

Ms. Burgos stated that is something that could be done administratively and is not something that needs to be written into regulations. The committee could vote at the July meeting. She told Ms. Ferguson that administratively, what she is suggesting would be splitting the supplemental pools, which would make it a little more difficult to allocate the supplemental requests, but is definitely doable administratively, if this is the direction that the committee wants to go. Ms. Burgos stated that the other issue is that not all of the requests for supplemental funding fit into the boxes that currently exist. She stated the challenge with fitting them in competitively is, they were originally awarded non-competitively in a pool that no longer exists, or where the project falls now is in a pool category that they did not originally apply for. She said logistically, staff can make suggestions to make that work.

Ms. Ferguson asked again if there were other pools in Round One that had the left-over funds.

Ms. Burgos stated that there were. She said she is following how things were done last year, with surplus rolling over into Round Two. The MIP pool does not have a Round Two. She also stated that at the end of Round Three last year there was \$60 million that could not be allocated before the end of the year that was allocated lump-sum carry-forward. She said that could potentially happen again this year. Staff heard from other stakeholders that they do not want to dip into Round Two funds if at all possible. She said she is hoping to get some seed money to get started on issuing supplemental requests and get direction to obtain additional allocation for any additional supplementals that go through at that time.

Treasurer Ma asked if the Committee would be asked to make decisions regarding the geographic pools, and other pools for next year and if staff would recommend a set-aside for a supplemental pool.

Ms. Burgos responded affirmatively to Treasurer Ma.

Ms. Ferguson stated that she had some questions about a penalty slide in Ms. Burgos' presentation. She stated that from her perspective as a practitioner, the penalties that are proposed really affect future rounds and especially for those deals that came in 2022 as well as deals from 2020 and 2021 that are in construction. She stated what is happening in the economy and the effect of the volatile market is an issue and not just sloppy budgeting. She said she has a little bit of an aversion to assessing negative points so projects cannot compete from year to year. She said she assumes this is what the outcome would be. She said from her perspective going forward this year, addressing the supplementals will need to be done very carefully to make sure that projects are taking enough, but not more than they need. She said the other suggestions, especially the last one, is more where she would be supportive.

Mr. Sertich stated that he appreciates Ms. Ferguson's concerns, and he thinks they do want to make sure that projects are coming in at the correct amounts and not low-balling their requests and their needs in order to win the competition and then have a clear path to be able to make up that difference in moving forward. He said he thinks there should be some penalties in place for those projects,



## California Debt Limit Allocation Committee

knowing that as a Committee they have the ability to across-the-board wipe those out for certain rounds, and for certain times, when that is really necessary such as when we have 10% inflation and a market down-turn that slows everything down. He said he hopes that gets to what Ms. Ferguson is concerned about.

Ms. Ferguson responded to Mr. Sertich that his response did get to what she is concerned about and she thinks in Ms. Burgos' slide show presentation there was also a suggestion that dictate, as a committee, how much projects have to take so that they cannot game the system. She said that also might be a solution to what Mr. Sertich was talking about; if projects come in at 50% and it is a 50% test and they know what is going on right now in the economy, it would be odd to say, "No, you have to take 54% or 55%" but it may be a good suggestion right now for the rest of this year.

Mr. Sertich said he understands there could be some projects where the higher percentage request would not resolve their cost issues.

Ms. Miller said she likes Ms. Ferguson's idea a lot about the higher basis points and thinks that determining it on the eligible basis makes sense, with the flexibility that Ms. Ferguson stated versus a percentage of the allocation. She thinks if it is based on the eligible basis, between 50 and 55% and not based on the original allocation then she does not want to go down the road of negative points. She said she thinks determining it on the eligible basis will decrease the risks to the volume cap and increase their ability to get more done. She said she would like to have a way to levee a fee or impose a subsequent penalty for egregious actors, for a future round, and would like some flexibility since developers gaming the system is her biggest concern with over the counter supplementals. She said she feels they can take care of this based on eligible basis and knowing where the 50% is. She said hopefully the projects that need a supplemental will be far enough along that it will be a much fairer calculation at that point. She said supplementals should be about those projects that are about to start construction, where the possibility of gaming should be a lot less significant. She said she is loathed to do too much, but thinks it is fine to have some kind of idea to prevent abuse only when needed. She said she agrees with the Supplemental Allocation Review process as suggested. There needs to be such a process in place, not just an ask and you shall receive. She said there should be a process and is comfortable with staff determining that. She stated that if CalHFA is able to issue more awards in the MIP program that they should be able to do so. They should be rewarded and not punished for only using what they need and doing things efficiently which has been helpful to the volume cap at large. Ms. Miller stated that supplementals should go back to the pools to the extent possible, and if it is not possible because it is from previous years, the MIP pool would be appropriate. She said because of how efficiently the MIP Pool is run, it is important that they get their supplemental. She said no other pool is running as efficiently in terms of using only what they need, and she does not fully understand how projects can be penalized while trying to get them through to the finish when the price went up and there is a need for a supplement.

Treasurer Ma thanked Ms. Ferguson and said she agrees that CalHFA should not be penalized for being proficient. She asked what CalHFA's supplemental request is.



## California Debt Limit Allocation Committee

Ms. Ferguson stated that since the bonds had been allocated just an hour ago, that it would take some time for them to work with the developers. She said she could state with some certainty and confidence that 80% of their deals have gaps from when they were submitted to CDLAC and CTCAC. She said they plan to do their underwriting and approval process by the end of September. She said they are taking half of the deals to the board in July and the other half in September. This is something they will be addressing quickly and to the extent that they can, are encouraging developers to look to investors, to look to their localities, to look to all the resources, so everybody is at the table. She said she does think they will need the entire amount.

Treasurer Ma said she would like to hear from the public on these proposals. She said she knows that everyone has been asking for supplementals for the last three years and would like to know where they stood given the new market conditions.

Mr. Barker thanked Ms. Ferguson and Ms. Miller for a lot of their points. He said he thinks they were pretty spot on. He said in general, the reason there is a supplemental application is the projects are already in trouble. They need to make that 50% test so that they can get across the line so that they do not have a default. There are different reasons for pre and post [supplemental requests] and acknowledged what Mr. Sertich brought up, that capping at the 55% and staying at the 55% really limits a lot that could be gained. He said to be able to get to a supplemental allocation, most of the developer fee has been wiped out or been put to the end of the deal, which has happened a lot. He said negative points have historically been for very egregious things, not for something like a market condition where projects are just trying to get through a 50% test. He said projects deposit up to a \$100,000 performance deposit and if they are not able to perform that fee can be forfeited. He said previously, projects have been putting in for supplemental allocations to really get an extension without getting a full-blown extension, so there is the original bond allocation that is going to close and then there is a supplemental allocation put it, now the supplemental allocation will tie the old bond closing deadline to the new bond closing deadline. He said he objects to giving these projects a new six-month deadline.

Ms. Burgos stated that the regulations tie the supplemental issuance deadline to the original bond issuance deadline.

Mr. Barker said he just wanted to make sure that this is the case, and that supplemental requests have been used in the past to get extensions without requesting extensions. He said concerning the supplemental allocation review proposal, previously there was a skinny application page and a streamlined process for obtaining supplemental applications that included a new partial performance deposit and commitment letter. He said he thinks there could be potentials to game the system, yet in his opinion most of the deals going in right now are just because they are trying desperately to get over the 50% test.

Ms. Burgos said she wanted to add that staff has been looking over every supplemental application coming in and assessing whether or not they would have been competitive in their original round with their bond allocation request, and so far, they have all still been competitive.



## California Debt Limit Allocation Committee

Mr. Barker stated, hypothetically, their tiebreaker should be even better if they are asking for a lower amount.

Ms. Burgos said everything is going to change [regulations] so that might not be the case. She said all the supplemental applications received for all of last year and this year, in the first round, were evaluated to determine if they had submitted their request as it stands now, with their original allocation request, to see if they would still be competitive. She reported that staff determined they would have been competitive either way.

Mark Stivers, representing California Housing Partnership, thanked the Committee for talking about the supplemental allocations. He said the main point to reinforce is that having an over-the-counter process where developers have certainty that they can get the supplementals when they need them in a timely manner is the biggest thing of all. Regarding how they might cap; having a cap at 52% is generally good and maybe it becomes a 51% cap during the construction period but a 52% cap for both could work. In terms of having a 10% cap in addition is a possibility but wanted to note there could be some danger with that. Some projects that are going to be at 52% or 51% and they need a 10.1% increase, then that project is going to die, and such projects may be under construction currently, which makes for a difficult position for everyone to be in. He suggested it would be better to go with a percentage of the basis cap not a percentage of the allocation, but he thinks in most cases that should not be a problem. He said in terms of the penalties, he doesn't think that anyone is interested in penalizing developers that receive an award last year or this year. He said they all know that they are in a very difficult market, so that he does not think they have to worry about anybody being penalized for the current market conditions. He said where a penalty is necessary is from the Round Two applications and going forward. The tiebreaker is based so much on the bond request that there is an incentive to reduce the bond request, if one knows they can get a supplemental the day after they get an award. He thinks that this helps take care of the issue about the current market conditions and it should only be for future awardees not those who have received awards so far this year or last year. To ensure developers are not gaming, negative points is probably too harsh, the performance deposit is a good place to start but, in most cases, he thinks the performance deposit is the least amount when construction loans close. He referenced Mr. Barker's comment that developer fees are often already ramped down to begin with, so when projects come in for supplementals they no longer have that tool. He is opposed to reducing tiebreakers in future rounds yet acknowledged it does seem to be the one tool that may have a significant impact. He acknowledged Mr. Sertich's comment, that the board would retain the discretion at any point after an award has been awarded to come in and say "Look, we are not going to impose penalties in this situation because of market conditions." He said if you have significant penalties, he doesn't think the committee needs to dictate at the application stage the percentage of bonds that people are requesting. They will request what they think they need. They are going to make sure, if there is a penalty, that they do not low-ball that number because they do not want to be subject to the penalty. Mr. Stivers thanked the Committee for its consideration.

Treasurer Ma asked for clarification that Mr. Stivers was in favor of the reduced tiebreaker.



## California Debt Limit Allocation Committee

Mr. Stivers replied yes, that it would be the most effective and fair and would apply in all situations, though he understands that is a sensitive matter.

Treasurer Ma stated that the others seem more punitive, but the tiebreaker affects them in the next round to be competitive.

Mr. Stivers said yes, negative points would make them ineligible to get an award because they have to have maximum points. The tiebreaker could be a big disincentive or if it is a small disincentive, it has a marginal impact. He said the tiebreaker gives you the ability to size it to how you think it is appropriate to what they issue.

Caleb Smith, representing the City of Oakland Housing Department said they do not have a particular position on how this ought to be prepared, just that it is looked at systemically. He asked if there was a rough estimate for the total amount of supplemental allocations that are being requested this year.

Ms. Burgos stated there is no way to gauge or to guess supplemental requests.

Mr. Roope, stated one other consideration to make things simpler for staff is to put a question in play for any one project to commit not to request a supplemental allocation. He said that it might be easier for staff to administer, and then sponsors can pick and choose what projects they think it is worth making that commitment for, and if they are concerned about a project, they have flexibility and then there is not the ongoing negative points to administer by staff. It would be on a project-by-project basis, it would be in the resolutions, and it would simplify everything. He said what is being experienced in the market is a quick and sudden shock with interest rate changes and inflation. The crop of projects that are currently dealing with this issue are not really the same crop that are going to be coming in for your next round. He said everybody is on notice now of the problems we have in the market and for those applications coming in during August, they should be thinking about escalations in their construction costs, and everything else to deal with these issues. There should be no more surprises. He disagrees with the 55% measure but agrees there should some limitation on the initial allocation request.

Darren Bobrowsky, representing USA Properties Fund, stated the reason developers and projects are in this situation is two factors: 1) The sudden unforeseen shock with construction and interest rates to projects, and 2) CDLAC's policy to limit the bond cap to 55%. He said while this is a very good intention of this policy, he does not think CDLAC could foresee, just like developers, this change in the construction market. He states we are kind of partners in this together to thread between the 50% and 55%. He said, unfortunately, due to inflation and other things mentioned, a lot of projects are in dire straits. For projects that have already issued bonds, there is a significant cost to issue additional bonds for supplemental issuance by the issuer. They are already being penalized for the projects that closed.

Further penalizing developers seems to be doubling up on additional costs for projects that are already suffering. He agreed that projects that have already received bond cap including those projects





## California Debt Limit Allocation Committee

awarded today are in a different group and should not be penalized, since the idea of a supplemental application was not proposed before these projects applied. They did not know that there was an opportunity to game the system. They were just operating under the rules at that time. There should not be any penalty for those projects. He said he agrees that for projects going forward in subsequent rounds not allowing an increase in developer fee as costs go up over the original application. A lot of projects are not going to be able to wait until the end of the year to see how much money is left over in pools. He anticipates that \$45 million is not going to be sufficient for projects that are already in construction all the way through this round that was awarded today. He said the Committee should survey the issuers of these projects to see what the intended applications will be for supplemental bonds so that the committee can make an informed decision of how much potentiality there is and in what pools in their July meeting. He thanked the Committee for considering the supplemental pool and the process.

Rebecca Clark, CEO of Linc Housing, thanked CDLAC for consideration of a streamlined supplemental application process and for the attention to detail that is taking place. She said this has many potential unintended consequences. She said that between the application and now, incredibly rapid increase in costs has truly impacted their project. A Linc national project was just approved in the MIP set-aside pool was significantly impacted by market conditions. It has created a 50% problem and a gap in the project. She said they appreciate consideration of this streamlined allocation process and have three points: They support the idea of capping the eligible basis to 55% as opposed to going to something up to 10% as that 10% would not work for them given the kinds of increases they have seen. It would not get them to where they need to be on the 50% test. She said she thinks it was Mr. Roope that mentioned that they would then be in a double bind if this were to happen. They also support the splitting of the supplemental pool to various set-asides from the specific buckets. This seems fair given that they all went into a separate set-aside to begin with. Regarding penalties, she said that Mr. Bobrowsky made the point that they had no way of knowing that this was all going to happen, nor would they have had the opportunity to apply for a supplemental application, so they clearly did not go into this looking to game the system. She said they can certainly prove this as they go through a process. She said she does not like the idea of the negative points but rather if they had to do something that really counts on them to lose the allocation that they take to really be honest about what do they really need as they start to refine their costs now as they are getting closer to that point of closing. She thanked the Committee for their time for bringing up this important issue and said that they would also be speaking to the Tax Credit Committee about the other side of the coin of state credits and looks forward to hearing how that lands.

David Iskowitz, with Hope Street Development Group stated that they have two projects that are mid-construction right now and he wished to reiterate what some others have already said. They are in a very unique position, in the sense that they have units that can actually be on-line in days or months. They are essentially being held off-line because they need certainty that they are able to meet the 50% test. They are in a very different category from projects that are in construction. While he appreciates the idea of creating separate pools and separate buckets, and that people applied in specific buckets during the course of this past year, he said their projects in particular applied in the year before last year. The buckets that their projects applied for no longer exist today. They were not set up to



## California Debt Limit Allocation Committee

compete with the current process and it would be absolutely catastrophic if they missed their 50% test for that sort of technical reason. He urged everybody to allow this to be put to staff to make the judgements calls as to which projects have completed what they actually need. He said the other serious concern for their types of projects is the timing that it takes to actually get the application through, in as much as these are projects that are ready to be placed in service, they need an application process that actually works for a project that is already done. He said that the full application or something close to a full application would keep these units off-line.

Ms. Burgos said a motion was not needed and that CDLAC is looking for guidance from the Committee so they can form the recommendations that are going to be made in the regulations at the next meeting.

Treasurer Ma asked each Committee member to give their feedback.

Mr. Sertich stated it is important to have some sort of commitment on the original, as a percentage of the original bond amount in terms of what they are going to approve over the counter. He said there should be limits for pre-issuances as to how much they can request, as it is almost like a new project and would need to be run through the competition. He stated CDLAC is on the right track with all that was discussed.

Ms. Miller asked for clarification on whether Mr. Sertich meant bond allocation amount or eligible basis and if he was not suggesting a percentage of the allocation amount, in terms of how CDLAC is writing a regulation as to how to determine what the supplemental is, that could be based on the eligible basis to get a project up to 50 or 55%.

Mr. Sertich said no, the eligible basis is changing and thinks that there should be a maximum amount based on the original bond allocation. He gave an example that the supplemental applies; if a project comes in for \$10 million because their original cost is \$19 million, original basis, and their basis goes up to \$30 million. Now, they need to increase their bond amount to \$15 million, which is a huge increase in the bond amount that they shouldn't agree with. They already have the maximum bond allocation of 55%, so it is already in there. They could lower that for supplemental if they wanted to, 55% is already in there and that it is really limiting the additional amount and managing exceptions on a one-off basis. He said he expects that most of these will be able to work through the streamline process. He said that post issuance projects become trickier.

Mr. Burgos clarified it would be a percentage of the eligible basis but not to exceed a certain percentage of the original ask for the over the shelf process and that they potentially would be bringing supplemental requests to the committee if they are exceeding that amount.

Mr. Sertich agreed and said especially for the post issuance projects as those become trickier.

Ms. Miller said she agreed and the only other thing that she would oppose is assessing negative points based on a supplemental request.



Ms. Ferguson said she already expressed her concerns.

Ms. Burgos said CDLAC would also present recommendations for funding the supplemental allocation pool, outside of the regulations.

Treasurer Ma asked if fees for reviewing supplementals were needed.

Ms. Burgos stated that there is a fee in the regulation, that is \$600.

Treasurer Ma said if projects are going to get a supplemental award that it needs to be for reasons not anticipated, and they shouldn't get a supplemental award and also be competitive for the next round. She suggested adjusting the tiebreaker, to create balance with those that did not need the supplemental award yet are competing against those same developers in the next round.

Ms. Robles thanked Emily for all the hard work she put into this and acknowledged that Mr. Navarrette was given accolades earlier. She informed the Committee that the instant the Committee voted yes on the QRRP projects, Mr. Navarrette sent her all 68 resolutions to sign. She also thanked the committee for all this great feedback because in order to get these supplemental allocations going, they need to get this into the regulations. She said CDLAC plans on bringing these regulations to the committee on July 20, 2022. She said CDLAC is grateful for all the feedback to hear it is generally unified.

Ms. Ferguson said there were important comments about this round. She said the first round and previous rounds are different than the next round, for those in the market, as they know what's happening and structuring their deals for it. She said she assumes the regulations will take that into consideration.

This is not an action item.

#### **8. Public Comment**

There was no public comment.

#### **9. Adjournment**

The meeting was adjourned at 2:48 p.m.