



## CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

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JEREE GLASSER-HEDRICK

To: CDLAC Program Applicants (Issuers)

From: Jeree Glasser-Hedrick, Executive Director

Date: February 8, 2017

### **Re: Bond Issuance and Post-Issuance Compliance Policy Requirements and Guidelines**

The purpose of this memo is to advise Issuers of the new bond issuance and post-issuance compliance policy submission requirements contained in CDLAC Regulation 5031(c) (adopted December 15, 2016) and to provide suggested guidelines for policy promulgation.

Pursuant to CDLAC Regulation 5031(c), all Issuers must submit, for each State Ceiling Pool from which an allocation is requested, policies setting forth the applicant's bond issuance procedures and post-issuance compliance procedures. New Issuers and Issuers who have not received an allocation since January 2013 must submit their policies and supporting documentation before applying to CDLAC to receive allocation. A waiver until December 31, 2017 may be requested by Issuers with a pending 2017 project. Issuers that received an allocation of bonds after January 2013 must submit their policies no later than **December 31, 2017**. Given the variation of local approval processes and the desire to eliminate having to reapprove policies, CDLAC, beginning July 1, 2017, will be willing to review draft bond policies to ensure compliance with the CDLAC regulations in advance of local approval. In this scenario CDLAC will need a two (2) week timeframe to review the policies. Policies and supporting documentation should be submitted to [cdlac@treasurer.ca.gov](mailto:cdlac@treasurer.ca.gov) with the subject line "ISSUER POLICY APPROVAL REQUEST."

The submission of an Issuer's policies, required supporting documents, and CDLAC's approval of the policies are a prerequisite for allocation eligibility. CDLAC will review the policies for consistency with the CDLAC regulations to ensure that appropriate approval documentation is in place and to verify that any required legal review has occurred. CDLAC will provide Issuers with written confirmation of its policy approval. A policy must be reviewed and re-approved when changes are made. Policies must also be reviewed and re-approved every ten (10) years after the date of CDLAC's approval of the policy or changes thereto.

CDLAC has developed the attached guidelines for use by Issuers in developing their bond issuance and post-compliance policies. The guidelines are also available on the CDLAC website. The list of topics in the CDLAC guidelines are provided as guidance for policy development and do not constitute a comprehensive list of what a jurisdiction might choose to include in its policies as Attachment #1. Also included is Attachment #2, a list of all Issuers who have issued bonds from January 2013 to date.

You are advised to visit the CDLAC website and/or subscribe to the CDLAC e-mail distribution list to receive additional guidance and information as it becomes available. Should you have questions regarding the information, please do not hesitate to contact the CDLAC office at (916) 653-3255.

## **Bond Issuance and Post-Issuance Compliance Policy Requirements and Guidelines**

CDLAC Regulations § 5031(c)

### **A. Submission Requirements**

#### ***1. Required Documents***

For each State Ceiling Pool from which an allocation is requested (*i.e.*: QRRP, MCC, Beginning Farmer Bond, etc.), an Applicant **must** submit:

- a written Bond Issuance Policy.
- for each Bond Issuance Policy, a resolution, dated no earlier than 2006, signed by the appropriate governing body formally adopting the policy.
- for **QRRP** Bond Issuance and Post-Issuance Compliance Policies only, a letter from legal counsel having expertise with the federal and state laws pertaining to the issuance or conversion and post-closing compliance of private activity conduit bonds verifying that the policy is consistent with applicable federal and state laws.

#### ***2. Submission Deadlines***

The policy documents listed in section A above must be submitted:

- immediately for new Applicants and Applicants who have not received allocation from CDLAC since January of 2013. If an Applicant has not utilized CDLAC's programs but has a 2017 project pending, a one year waiver to the policy submission requirements may be requested.
- no later than December 31, 2017 for Applicants having received an allocation of bonds from CDLAC after January 2013.

A policy must be reviewed and re-approved when changes are made. Policies must also be reviewed and re-approved every 10 years after the date of CDLAC's approval of the policy or changes thereto.

### **B. Policy Guidelines**

The list of topics are provided by CDLAC as guidance for policy development and implementation of Section 5031 and do not constitute a comprehensive list of what all jurisdictions may choose to include:

#### ***1. Bond Issuance Policy***

- For JPA's, the locality (*i.e.*: city, county, etc.) where the Project will be located must be a member of the authority (see, CDLAC Regulations § 5031(a)).
- Application and supporting documents requirements.
- Fee Structure for issuance and ongoing annual administration
- Requirements for inducement & TEFRA Resolutions and TEFRA public hearings.

- Parameters for issuer liability for bond issuance or repayment of bonds.
- Indemnification requirements with respect to the financing and the project provided by the applicant.
- Procedures and requirements for private placement purchases and public sales of bonds.
- Underwriter selection criteria and procedures.
- Credit enhancement requirements
- Bond Counsel selection criteria and procedures.
- Loan to value restrictions/limits.
- Interest rate restrictions/limits
- Requirements for offering materials or disclosure documents
- Breakdown of fee structure
- Limitations/restrictions for bond purchasers
- Maximum loan amount
- Minimum bond ratings
- Minimum/maximum bond denominations
- Limitations on uses of bond proceeds
- Rent and income limitations (if applicable)
- Affordability requirements (if applicable)
- Public benefit requirements
- Debt to income requirements
- Local review and approval requirements
- Review procedures and requirements for financing structure, financing documents and tax exempt status.
- Developer and ownership partnership requirements and limitations.
- Property management requirements and limitations. (if applicable)
- Management plan requirements (if applicable)
- Procedure for determining developer fee and developer fee limits (if applicable).
- ID any third-party contractors and describe rights, obligations and limitations of third-party contractors.
- Exceptions/waivers of policy requirements and procedures for requesting a waiver

## ***2. Post Issuance Compliance Policy***

- ID any third-party contractors engaged in compliance verification, reporting and/or auditing and describe rights, obligations and limitations of third-party contractors.
- ID parties responsible for compliance verification and reporting
- Define Commencement of Qualified Project Period and describe reporting requirements and procedures
  - Identify which CDLAC compliance forms will be utilized. If not using CDLAC forms, include forms to be utilized
- Describe compliance verification, reporting and auditing procedures for:
  - Affordability (i.e.: # of units at 50% AMI and 60% AMI) (QRRP only)
  - Rent limits (QRRP only)
  - Income limits (QRRP only)
  - Utility allowances (QRRP only)

- Service amenities and other public benefits required by CDLAC resolution (All Programs)
- Arbitrage rebate (All Programs)
- Frequency of compliance verification, reporting and audits
- Issuer document retention procedures and time limits
- Site-based document retention procedures and time limits.
- Procedures for reporting compliance/non-compliance to regulatory agencies and other external entities (*i.e.*: CDLAC, TCAC, etc.)
- Criteria and procedures for seeking revised resolutions and/or regulatory agreements
- Non-compliance correction procedures and penalties.

### **Active Issuers**

- 1 ABAG Finance Authority for Nonprofit Corporations
- 2 Area Housing Authority of the County of Ventura
- 3 California Affordable Housing Agency
- 4 California Department of Veterans Affairs
- 5 California Enterprise Development Authority
- 6 California Housing Finance Agency
- 7 California Infrastructure and Economic Development Bank
- 8 California Municipal Finance Authority
- 9 California Pollution Control Financing Authority
- 10 California Public Finance Authority
- 11 California Statewide Communities Development Authority
- 12 Carmichael Water District
- 13 City and County of San Francisco
- 14 City of Hayward
- 15 City of Lancaster
- 16 City of Livermore
- 17 City of Los Angeles
- 18 City of Oakland
- 19 City of Oceanside
- 20 City of San Jose
- 21 City of Santa Rosa
- 22 Community Development Commission of the County of Los Angeles
- 23 County of Alameda & Industrial Development Authority of the County of Alameda
- 24 County of Contra Costa
- 25 County of Riverside/Industrial Development Authority of the County of Riverside
- 26 County of San Diego
- 27 County of Santa Clara
- 28 County of Ventura
- 29 Golden State Finance Authority
- 30 Housing Authority of the City of Anaheim
- 31 Housing Authority of the City of Chula Vista or City of Chula Vista
- 32 Housing Authority of the City of Fresno
- 33 Housing Authority of the City of Oakland
- 34 Housing Authority of the City of Oxnard
- 35 Housing Authority of the City of Sacramento
- 36 Housing Authority of the City of San Buenaventura
- 37 Housing Authority of the City of San Diego
- 38 Housing Authority of the City of San Luis Obispo
- 39 Housing Authority of the City of Santa Barbara
- 40 Housing Authority of the County of Kern

- 41 Housing Authority of the County of Los Angeles
- 42 Housing Authority of the County of Marin
- 43 Housing Authority of the County of Monterey
- 44 Housing Authority of the County of Sacramento
- 45 Housing Authority of the County of San Bernardino
- 46 Housing Authority of the County of Santa Barbara
- 47 Housing Authority of the County of Santa Cruz
- 48 Richmond Housing Authority
- 49 Sacramento Housing and Redevelopment Agency on Behalf of the County of Sacramento
- 50 The Regents of the University of California