

# CDLAC Committee Regulations - Proposed Changes

## Section 5000. Definitions.

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~~“Deemed Waived” means any designated Recovery Zone Bond Allocation not issued or included in a Plan of Issuance by August 15, 2010 that may automatically be deemed returned to CDLAC for reallocation.~~

“Distressed Community” means a community that the Applicant demonstrates to be any one or more of the following:

- A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department’s most recent annual average for sub-county areas.
- A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.
- A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place such as a census tract or tracts, smaller geographic areas will be used.
- A community or county affected by a state of emergency within California and declared a disaster by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture, or declared to be in a State of Emergency by the Governor of the State of California.

~~“Mixed Income Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.~~

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

~~“Net Proceeds” means proceeds used for “recovery zone property” as defined in 26 U.S.C. 1400U-3(b)(1)(A).~~

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~~“Plan of Issuance” means a report due to CDLAC from a county or municipality receiving a U.S. Treasury-Designated Recovery Zone Bond Allocation that includes the following: One, a brief description of the Project(s) to be funded utilizing RZBs, including the proposed qualifying project type, sponsor contact information and anticipated Bond amounts; Two, a copy of the locally approved resolution designating the area in which the proposed Project(s) are located as a Recovery Zone(s); Three, an identification of the local approvals obtained to date; and Four, the anticipated construction start date and timeline for project completion and Bond issuance.~~

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~~“Qualified Business” means any trade or business as defined under 26 U.S.C. section 1400U-3(c)(2) which exempted “(1) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not a residential rental property as defined in 26 U.S.C. section 168(e)(2); and (2) such term shall not include any trade or business consisting of the operation of any facility described in 26 U.S.C. section 144(c)(6)(B).”~~

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

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

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**Section 5010. Determination of State Ceiling, Competitiveness, and Minimum Points.** (a) As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee shall determine and announce the State Ceiling and the portion of the State Ceiling that will be available for each of the State Ceiling Pools as set forth in article 3 of this chapter.

(b) Pursuant to subdivision (a) of this section, the Committee shall determine and announce the establishment of either an Open Application Process or a Competitive Application Process, or both, for each State Ceiling Pool. The Committee shall determine which process is best for each program pool based on factors including, but not limited to, the amount of the State Ceiling available to the pool and the history of Applications for allocations from each pool.

(c) Pursuant to subdivision (a) and (b) of this section, the Committee shall establish a minimum point threshold for the ~~General~~New Construction, Rural, Preservation, Other Rehabilitation and ~~Mixed Income Project~~ BIPOC Pools as determined in section 5020.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.

**Section 5020. Determination of State Ceiling Pools.** As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee will:

(a) Determine and announce what amount, expressed both as a percentage and as a dollar amount of the State Ceiling, shall be available for Allocation during the year and in each Allocation Round to Qualified Residential Rental Projects from the Qualified Residential Rental Project Pool.

(1) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage ~~(not to exceed twenty-five percent (25%))~~ of the Qualified Residential Rental Project Pool shall be reserved in a ~~Mixed Income Pool~~ New Construction to be available for allocation to ~~Mixed Income~~New Construction Projects that are not Rural Projects, and determine what amount, if any, shall be available in each Allocation Round.

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

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

received either of the following, and determine what amount, if any, shall be available in each Allocation Round: (i) an award of funding from the Department of Housing and Community Development (HCD). For purposes of this Set Aside, an award of funding from HCD shall include awards made directly by the department pursuant to the Multifamily Housing Program, the Affordable Housing and Sustainable Communities Program, the Transit Oriented Development Program, the Joe Serna Jr. Farmworker Housing Grant Program, the No Place Like Home Program, Housing for a Healthy California and the Veterans Housing and Homelessness Prevention Program. The income restrictions shall be at least as restrictive as those for which the applicant received an award from HCD. (ii) an award of funding from a local public entity public funds as defined in Section 10325(c)(9) of the CTCAC regulations public funds as defined in Section 10325(c)(9) of the CTCAC regulations equivalent to 15% or more of the Project's total development cost, provided that the project meets the following criteria, as applicable: (aa) If the project receives points as a Large Family project pursuant to Section 5230(g) and is located in a High Segregation and Poverty Area as specified on CTCAC/CTCAC/HCD Opportunity Area Map, the project shall have income restrictions with a range of at least 30% AMI between the highest and lowest 10% of income-restricted units that meet the requirements of Section 5230(j)(1)(C). (bb) If the project receives points as a Large Family project pursuant to Section 5230(g) and is located in a High or Highest Resource Area as specified on CTCAC/CTCAC/HCD Opportunity Area Map, at least 10% of tax credit units shall be restricted at 30% of area median income and an additional 10% of tax credits units shall be restricted at 50% of area median income the project shall have income restrictions that meet the requirements of 5230(j)(1)(A). (cc) If the project does not receive points as a Large Family project pursuant to Section 5230(g) or is located in a Moderate (Rapidly Changing), Moderate, or Low Resource Area as specified on CTCAC/CTCAC/HCD Opportunity Area Map, the project receives maximum points for exceeding minimum income restrictions pursuant to Section 5230(d). (C) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Mixed Income Set-Aside to be available for allocation to New Construction Projects that are Mixed Income Projects, and determine what amount, if any, shall be available in each Allocation Round.

(2) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage (not to exceed ten percent (10%)) of the Qualified Residential Rental Project Pool shall be reserved in a Rural Project Pool to be available for allocation to Rural Projects and determine what amount, if any, shall be available in each Allocation Round.

(3) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Preservation Pool to be available for allocation to Preservation Projects and determine what amount, if any, shall be available in each Allocation Round.

(4) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in an Other Rehabilitation Pool to be available for allocation to Other Rehabilitation Projects and determine what amount, if any, shall be available in each Allocation Round.

(5) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a BIPOC BIPOC Pool to be available for allocation to BIPOC BIPOC Projects and determine what amount, if any, shall be available in each Allocation Round.

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Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82 and 8869.84, Government Code.

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

<u>Geographic Region</u>	<u>Apportionment</u>
<u><b>Coastal Region</b></u> <u>(Monterey, Orange, San Benito, San Diego San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura Counties)</u>	<u>21%</u>
<u>City of Los Angeles</u>	<u>18%</u>
<u>Balance of Los Angeles County</u>	<u>17%</u>
<u><b>Bay Area Region</b></u> <u>(Alameda, Contra Costa, San Francisco, San Mateo, and Santa Clara Counties)</u>	<u>17%</u>
<u><b>Inland Region</b></u> <u>(Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Bernardino, San Joaquin, Stanislaus, and Tulare Counties)</u>	<u>17%</u>
<u><b>Northern Region</b></u> <u>(Butte, El Dorado, Marin, Napa, Placer, Sacramento, Shasta, Solano, Sonoma, Sutter, Yuba, and Yolo Counties)</u>	<u>10%</u>

**Section 5033. Minimum Application Requirements.** (a) Applications for an Allocation of the State Ceiling may be submitted to the Committee at its offices in Sacramento, California. An Applicant must submit all required information appropriate to the type of Bond for which the Applicant requests an Allocation. The Applicant shall submit a complete Application and supplemental material for each project or program for which the Applicant is requesting an Allocation. Only complete Applications bearing the original signatures of an officer of the Applicant or designee and the Project Sponsor, if applicable, will be accepted.

(b) Unless specifically exempted, the following items must accompany all Applications:

(1) Performance Deposit Certification and evidence of the performance deposit as provided in section 5050(a), except that for Qualified Residential Rental Projects, an Applicant shall provide the certification and evidence within 20 calendar days following an award of an Allocation.

(2) A non-refundable first installment of the filing fee of \$1,200 made payable to the California Debt Limit Allocation Committee as provided in section 5054(a).

(3) Proof of the bond sale structure requirements pursuant to article 6 of this chapter, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to chapter 3.

(4) An inducement or reimbursement resolution adopted by the governing body of the Applicant approving the project or program to be Bond financed and authorizing a senior officer, or in the case of a Student Loan Program, an officer of the sponsor of the Student Loan Program, to file the Application with the Committee, pay any fees required by the Committee, and certify the posting of the required performance deposit, unless excepted herein.

~~(1) Performance Deposit Certification and evidence of the performance deposit as provided in section 5050(a),~~

~~A non-refundable first installment of the filing fee of \$1,200 made payable to the California Debt Limit Allocation Committee as provided in section 5054(a).~~

~~Proof of the bond sale structure requirements pursuant to article 6 of this chapter, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to chapter 3).~~

~~An inducement or reimbursement resolution adopted by the governing body of the Applicant approving the project or program to be Bond financed and authorizing a senior officer, or in the case of a Student Loan Program, an officer of the sponsor of the Student Loan Program, to file the Application with the Committee, pay any fees required by the Committee, and certify the posting of the required performance deposit.~~

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Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(a), 8869.85(b) and 8869.90, Government Code.

**Section 5035. Preliminary Recommendations.** ~~(a) At least twenty-five (25) calendar days prior to any meeting at which the Committee will award Allocations, the Executive Director will post a preliminary list of Applicants for which the Executive Director expects to recommend an Allocation (and the amount of those Allocations). During competitive rounds, the following procedures will be followed for the Qualified Residential Rental Program: information gathered from the QRRP Self-Scoring Worksheet will be in ranked order. CDLAC will post all reported self-scoring totals on the Committee's website as provided in section 5140.~~

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

~~(b) For the Qualified Residential Rental Program, the list will identify the points earned by each Applicant in all categories for which points are awarded, including the Applicant's aggregate total points.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

**Section 5050. Performance Deposit Requirements.** (a) Applications for Qualified Private Activity Bonds shall include evidence of a performance deposit equal to one-half of one percent (.5%) of the Allocation requested, not to exceed \$100,000 made payable to the Applicant, except that for Qualified Residential Rental Projects, an Applicant shall provide the evidence of a performance deposit within 20 calendar days following an award of an Allocation.

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Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.84(e), Government Code.

**Section 5052. Forfeiture of Performance Deposit.**

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(e) An Applicant may request waiver of a performance deposit forfeiture by submitting a written request to the Executive Director within 30 days of the date of the Committee's Forfeiture Fee Invoice. The Committee shall grant a forfeiture ~~waiver-extension~~ upon a showing that the ~~circumstances-request aligns with an extended allocation and waiver upon showing the circumstances~~ prompting the forfeiture were unforeseen and entirely beyond the control of the Project's sponsor and development team. The granting of a waiver pursuant to this subsection will not preclude performance deposit forfeiture for subsequent extensions of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.86(c)(3), Government Code.

**Section 5053. Withdrawn or Denied Applications.** For Applicants that post the performance deposit prior to award of an Allocation, if ~~if~~ the Applicant withdraws an Application prior to consideration by the Committee or if a Project fails to receive an award of Allocation, the performance deposit shall be automatically refunded or released with and no written authorization from the Committee shall be necessary. "Applicants that receive an Allocation may also return the Allocation to the Committee within twenty (20) days of the award date without threat of negative points."

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.

**Section 5054. Filing Fees.**

Each Applicant shall submit a filing fee in an amount equal to the product of the amount of Allocation actually used to issue Bonds, or Mortgage Credit Certificates multiplied by .00035. The payment of the fee shall be in two installments as follows:

(a) Initial filing fee. A check in the amount of \$1,200 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.

(b) Initial filing fee for supplemental awards. A check in the amount of \$600 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.

(c) Second installment of Filing Fee. The second installment of the filing fee will be due within thirty (30) days after Bond issuance or issuance of the first Mortgage Credit Certificate. The Committee will issue an invoice in conjunction with the Committee Resolution transferring the Allocation to the Applicant. The amount of the second installment of the filing fee is the product of the amount of Allocation used to issue Bonds or convert to Bond to Mortgage Credit Certificate authority multiplied by .00035, less the fee paid pursuant to subdivision (a) of this section.



(d) If the second filing fee is not received within thirty (30) days, the Committee shall instruct the Applicant to remit the amount due from the performance deposit maintained by the Applicant specifically for the Project or program that was awarded Allocation pursuant to section 5050.

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

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.90, Government Code.

#### **Section 5100. Program Expiration Dates.**

(a) The expiration date of the Allocation shall be specified in the Committee Resolution and shall start from the date on which the Committee awards the Allocation.

(b) Notwithstanding extensions as provided in sections 5101, 5102 or 5103; the limitations prescribed by section 5104; or Allocations awarded on a carry-forward basis as provided in section 5131; the expiration dates for issuing Bonds or converting Bonds to Mortgage Credit Certificate authority shall be:

- (1) ~~Ninety (90)~~ One-Hundred Eighty (180) days for the issuance of Beginning Farmer Bonds, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, Exempt Facility Bonds, ~~Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds,~~ Qualified Public Educational Facility Bonds and the conversion of Bonds to Mortgage Credit Certificate authority.
- (2) One-hundred twenty (120) days for the issuance of Student Loan Bonds and for the issuance of at least one (1) Mortgage Credit Certificate.
- (3) For Qualified Residential Rental Project Bonds, the following expiration dates shall be assigned randomly by a lottery drawing conducted by the Executive Director within five (5) business days following each Allocation Round:
  - (i) Projects receiving an allocation shall be assigned an expiration date of one-hundred eighty (180) days or one-hundred ninety-four (194) days.
  - (ii) A project's applicant may request an expiration date of less than one-hundred eighty (180) days by submitting a written request to the Executive Director. The request shall be submitted no later than the final posting date for the round in which the project is seeking an allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

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

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

~~**Section 5102. Recovery Zone Bond Extensions.** The Committee may extend the expiration date for the issuance of Recovery Zone Facility Bonds or Recovery Zone Economic Development Bonds by an additional thirty (30) days. The Committee may delegate this authority to the Executive Director.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.

**Section 5153. Measurement of Distance.** ~~Wherever (a) Except as provided in (b) wherever~~ these regulations contemplate an award of points based on a measurement of distance, that distance shall be measured from the perimeter of the proposed Project to the perimeter of the site amenity referenced. Applications shall include a detailed scaled-for-distance map from which the Committee can document that the measurement criteria have been met. (b) Wherever these regulations refer to CTCAC/CTCAC regulations, in the event of any conflict between these regulations and the CTCAC/CTCAC with respect to measurement of distance, the CTCAC/CTCAC regulations shall prevail.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

## **Section 5170. Definitions.**

~~"Federally-Assisted-At Risk Project"~~ means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c)(6) and by section 10325(g) of Title 4 of the California Code of Regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code section 17058(c)(6) and section 10325(g) of Title 4 of the California Code of Regulations, except that the ~~federal~~ assistance due to expire within five (5) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

"BIPOC" refers to Black, Indigenous, and Other People of Color and aims to emphasize the historic oppression of black and indigenous people. To be considered a qualifying BIPOC non-profit organization requires having a BIPOC ED/CEO and 51% of the organization's board must be BIPOC. For purposes of this paragraph, People of Color means "a person who checked the Black or African American, American Indian and Alaska Native, Asian, or Native Hawaiian and Other Pacific Islanders race category or who answered yes to the Hispanic Origin question on the 2020 United States Census or, if that data is not yet publicly available, the 2010 United States Census."

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

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

"Capital Needs Assessment" means a document containing the information defined in section 5212.

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

"Community Revitalization Plan" means a comprehensive plan that details specific efforts being undertaken in a neighborhood or a community, that will result in the improvement of the economic conditions and the quality of life in that area.

"Energy Star" means the certification satisfying the requirements of 42 U.S.C. section 6294(a).



"Federal Promise Zone" means any area with a continuous boundary and a population of not more than 200,000 that is nominated by a local government or Indian tribe and designated by the U.S. Department of Housing and Urban Development to receive priority for Federal funding on the basis of its unemployment, poverty, vacancy, and crime rates.

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

"Gross Rent" means gross rent as defined by 26 U.S.C. 42(g)(2)(B). Utility allowances, as provided by 26 U.S.C. section 42(g)(2)(B)(ii), will be included for purposes of this calculation. Projects that are ~~Federally Assisted~~ At Risk Projects or Projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

"Hard Costs" means the cost of the work specified in a construction contract, including site work, excluding contractor profit, general requirements and contractor overhead.

~~"High Quality Transit" means a transit line with service seven days per week that operates on a railway, dedicated right-of-way or contains at least one of the following characteristics for at least a portion of its route: use of a High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lane, middle-of-the-road boarding alignment, signal prioritization, or use of limited stop service, including express service and skip-stopping.~~

"New Construction ~~Pool~~Project" - QRRP projects applying for an allocation of tax-exempt private activity bonds who meet at least one of the following: (1) the definition of New Construction in Section 5170100% of its units constitute new units to the market, (2) projects that involves the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater or (3) adaptive re-use of non-residential structures, including hotels and motels that were converted to residential use within the previous 5 years from the date of the application.

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

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

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

~~"Public Funds" means direct grants, below market rate or subsidized loans, loans where the repayment of the financing is deferred into the future or based on residual receipts from the Project's cash flow, direct funds from a public source including, but not limited to, waiver of fees or the value of land donated or leased by a public agency substantiated either by the actual purchase price of the land or by an appraisal whichever is lower, excluding a property tax exemption. Public Funds do not include any Allocation awarded by the Committee.~~

"Qualified Project Period" shall mean the same as defined in 26 U.S.C. section 142(d)(2)(A) and regulations promulgated thereunder, except that the minimum term shall be 30 years consistent with Section 5192.

~~"Substantial Renovation Project" means a multifamily residential rental project where the hard costs of rehabilitation, including overhead, profit, and general conditions, are at least \$35,000 per tenant unit.~~

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

~~"VOC" means a volatile organic compound.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

**Section 5180. Application Process.** Applicants seeking an Allocation of the Qualified Residential Rental Project Pool shall be considered in accordance with the provisions of chapter 1 and the submission of a QRRP Application. If deficiencies in the application are identified by CDLAC staff, ~~the CDLAC staff shall notify the Project Sponsor and the applicant, and the~~ applicant will have 24 hours 5 days from staff-issued notification to cure the deficiencies. If, after the 24 5 days hours, the deficiencies have not been corrected, as determined by CDLAC staff, the application will be deemed incomplete.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5190. Readiness.** In its Application, the Project Sponsor must demonstrate its readiness to use the Allocation as set forth in this section.

(a) Demonstrated site control. The Applicant shall provide evidence that the Project site is at the time of Application submission within the control of the Applicant or Project Sponsor. A current ~~title-preliminary or final title~~ report, or, for projects that will be located on Native American Trust Lands, a Land Title Status Report from the Bureau of Indian Affairs or an attorney's opinion regarding chain of title and current title status, all of which shall be dated no more than ninety (90) days prior to Application deadline as provided in section 5030, shall be submitted with all applications for the purposes of this requirement. A commitment for the title insurance or a title insurance document are not acceptable substitutions for a preliminary report title report, final title report, or a title report.

(1) Site control may be evidenced by any of the following:

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

.....

(b) Project Description. Applicant shall submit a narrative description of the proposed Project, labeled as Attachment K. The description must contain, at a minimum, the following details: 1) the number of acres of the site (include topography and special features), 2) a description of the surrounding neighborhood, 3) the targeted population for the project (i.e., large families, seniors, etc.), 4) the expected start and completion date of construction/rehabilitation, 5) physical features of the project (i.e., description of buildings, grounds, project amenities, etc.), 6) unit configuration, 7) unit amenities, 8) scope of rehabilitation work, and 9) if applicable, a description of other unique features of the project. 10) The Application must include a checklist, Project Type and Characteristics, with the Applicant checking as many items as are applicable to the proposed Project. (A)(i) The Project has an existing HAP contract. Please attach existing contract as Attachment L, L-1, L-2, etc. (ii) The proposed ~~Project is a Project is an Federally-Assisted~~ At-Risk Project as defined in Section 5170 of the CDLAC Regulations. (iii) The proposed Project is a Low Income Housing Tax Credit Resyndication Project. (B) The proposed Project is a Mixed Income Project as defined in Section 5000 of the CDLAC Regulations. (C) The proposed Project is a Rural Project as defined in Section 5000 of the CDLAC Regulations. DO NOT CHECK if item (B), above, has been checked. (D) The proposed Project is a ~~Acquisition & Rehabilitation~~ Preservation Project. (E) The proposed Project is a New Construction Project ~~or Adaptive Reuse~~ as defined in Section 5170 of the CDLAC Regulations. DO NOT CHECK if item (C), above, has been checked. (F) The proposed Project is a single room occupancy (SRO) rental project. (G) The proposed Project is a senior citizens rental project. (H) The proposed Project is an assisted living rental project. (I) The proposed Project is a special needs housing rental project. (J) The proposed Project is eligible for the Homeless Set Aside. (K) The proposed Project is eligible for the Extremely Low/Very Low Income Set Aside. (L) The proposed Project is a BIPOC/BIPOC Project.

.....

(i) Detailed Unit Affordability Information. (1) The application will include the Federal Bond-Election of 20% at 50% Area Median Income, or 40% at 60% Area Median Income. (2) For ~~Afederally-assisted-at-Risk~~ projects and 4% low income housing tax credit projects, this shall mean that the Project units must have Gross Rents that are restricted to households whose incomes must be 50% or less of the AMI; or Gross Rents that are restricted to households whose incomes must be 60% or less of the AMI. Applications not meeting this minimum requirement will be deemed incomplete. (3) The Application will include tables with the following information on the Restricted Rental Units: Number of Bedrooms/Number of Bathrooms, Unit Size in square feet, number of units in subtotals and total, total square feet per unit type in subtotals and total, proposed monthly tenant-paid rent per unit (excluding utilities), proposed monthly rental subsidy per unit, proposed monthly income per unit, monthly utility allowance, monthly gross rent, percent of Area Median Income based on monthly gross rent, and annualized total rental income. The Application will include another table, Market Rate Units, including number of bedrooms, unit square feet in subtotal and total, number of units, proposed monthly tenant-paid rent per unit (excluding utilities), total proposed tenant paid rent and annualized total rental income. Application will include a table, "Managers' Units" Restricted or Market Rate. The table will include columns for number of bedrooms, unit square feet in subtotal and total, number of units,

proposed monthly manager-paid rent per unit, total proposed monthly manager-paid rent and annualized total rental income. Application will include a table with total number of units (excluding manager units), total number of restricted units, percent of total restricted units, number of units at or below 50% AMI, percent of units at or below 50% AMI, number of units above 50% to 60% AMI, percent of units above 50% to 60% AMI, number of restricted rental units with 3 or more bedrooms, and percent of restricted rental units with 3 or more bedrooms.

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

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5191. Income and Rent Restrictions.** All Qualified Residential Rental Projects must meet the following minimum income and rent restrictions, which will be included in the Committee Resolution.

(a) Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the AMI. The rent restricted units that meet this requirement, with the exception of Mixed Income ~~Pool~~ Projects, acquisition rehabilitation projects already subject to a Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement, and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the Project. All projects shall offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.

(b) Minimum Rent Restrictions. Except for projects subject to an existing Residential Rental Regulatory Agreement that propose tenant paid rents and income targeting not exceeding one hundred-five percent (105%) of the current rents and targeting and operate with a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%) as demonstrated by a market study completed pursuant to 26 U.S.C. Section 42(m)(1)(A)(iii); the proposed tenant paid rents for each Restricted Rental Unit type (defined by bedroom count) in the proposed development shall be at least ten percent (10%) below the weighted average rent for comparable market rate units and each Restricted Rental Unit's value ratio (dollars per square foot) shall be at or below the weighted average unit value ratio for comparable market rate units as demonstrated in a Rent Comparability Matrix meeting the requirements of article 4 of this chapter.

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

.....

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

**Section 5192. Minimum Term of Restrictions.** (a) Income and rent restrictions as identified in the Committee Resolution for the total number of units must be maintained for the Qualified Project Period. ~~For the purposes of subsection (1) and (2) of this section, Except as provided in subdivision (b), the Qualified Project Period is shall be fifty-five (55) years following the date on which fifty percent (50%) occupancy is achieved or otherwise commencement of the Qualified Project Period. Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date. that period which begins on the date when ten percent (10%) occupancy is achieved and ends on the later of:~~

~~(1) Thirty (30) years following the date on which fifty percent (50%) occupancy is achieved, or~~

~~(2) The date on which Bonds are no longer outstanding.~~

~~(3) For an acquisition/rehabilitation project where more than 10% of the units are available for-~~

~~occupancy within 60 days of the earlier of property acquisition or the bond issuance date, the Qualified Project Period begins 12 months after the bond issuance date and ends on the later of: (A) Thirty one (31) years after the bond issuance date, or (B) the date on which Bonds are no longer outstanding.~~

~~(b) All Projects shall be subject to subdivision (a) or subdivision (c) of this section, unless a~~ If a Project is intended for eventual tenant homeownership, ~~in which case evidence the applicant shall provide evidence~~ of a financially feasible program ~~must be submitted~~ in the Application. The program shall include, but is not limited to, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, no involuntary relocation of tenants, and a plan for conversion of the facility to home ownership no sooner than the end of the initial 15-year Qualified Project Period as required by 26 U.S.C. section 142(d)(2)(A). In such a case, the regulatory agreement shall contain provisions for the enforcement of such covenants.

~~(c) If the round in which an Application is being considered has been established under an Open Application Process, the Committee shall increase the minimum term of restriction to fifty five (55) years following the date on which fifty percent (50%) occupancy is achieved or otherwise commencement of the Qualified Project Period. Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

## **Section 5205. Minimum Requirements.**

(a) Applicants shall provide a certification that the ~~following~~ minimum specifications pursuant to Section 10325(f)(7) (A) thru (J) of the CTCAC/CTCAC Regulations will be incorporated into the project design for all new construction and rehabilitation projects. ~~The requirements of subsections (2) through (9) of this section are only applicable when investment in such elements is proposed in the Project's scope of work and/or the Capital Needs Assessment:~~

~~(1) Energy Efficiency. All rehabilitation projects shall have improved energy efficiency above the modeled energy consumption based on existing conditions, with at least a ten percent (10%) post-rehabilitation improvement over existing conditions. Scattered site rehabilitation projects shall also have at least a five percent (5%) improvement over existing conditions at each location. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date pursuant to a government program or a public or regulated utility program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements.~~

~~(2) Landscaping. A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the State's Model Water Efficient Landscape Ordinance (Title 23, California Code of Regulations, Section 490 et seq.) (<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.~~

~~(3) Roofs. Roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.~~

~~(4) Exterior Doors. Insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces; with all six sides factory primed and subject to a standard one-year guarantee.~~

~~(5) Appliances. Refrigerators, dishwashers, clothes washers and clothes dryers provided or replaced within low income units and/or in on-site community facilities shall be ENERGY STAR rated appliances, unless waived by the Executive Director. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline~~

~~(6) Window Coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.~~

~~(7)—Water Heater. For units with individual tank-type water heaters, minimum capacities are to be 28-gallons for one-bedroom and two-bedroom units and 38-gallons for three-bedroom and larger units.~~

~~(8)—Floor Coverings. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. All carpeting shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D.~~

~~(9)—Insulation. All fiberglass-based insulation shall meet the requirements as established by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (f)(7)(I).~~

~~(b)—If a rehabilitation project's Applicant does not propose to meet the requirements of this section, its capital needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. If section 5205(a)(1) specifically is not being met, a qualified energy consultant shall provide documentation stating what energy improvements would achieve the 10% improvement, the cost of such improvement(s), and a statement describing why the improvements would be unnecessary and/or excessively expensive.~~

~~(c)—Compliance and Verification. Projects that receive an award of low-income housing tax credits (LIHTC) shall submit evidence of compliance to CTCAC with the Placed-in-Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit evidence of compliance to CDLAC. For projects under construction or rehabilitation, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds.~~

~~(1)—Projects subject to subdivision (a)(1) must submit the California Energy Commission HERS II energy consumption and analysis report, which shows the pre-rehabilitation and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement.~~

~~(2)—For subdivisions (a)(2) through (a)(9), Applicants shall submit third-party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:~~

~~A.—A certified HERS Rater;~~

~~B.—A certified GreenPoint Rater; or~~

~~C.—A US Green-Building Council Certification~~

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

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

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5210. Minimum Expenditures.** (a) Except as set forth in subdivision (b) of this section, Qualified Residential Rental Projects involving the rehabilitation of existing buildings must complete a minimum of \$15,000 in hard construction costs per unit.

~~(b)(a) Federally Assisted~~ At Risk Projects that receive only an award of Bond authority and do not receive low income housing tax credits, must spend the minimum amount required by 26 U.S.C. section 147(d)(2).

~~(c)(b)~~ For purposes of this article, "hard construction costs" means the sum of the structure costs plus on-site and off-site costs.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.



**Section 5220. Regulatory Compliance.** (a) All QRRP allocation recipients are required to execute a Bond Regulatory Agreement (the "Regulatory Agreement"), as a condition to the Committee's making an allocation, which will be recorded against the property for which the allocation is used, and will reflect all commitments outlined in exhibit A of the Committee's resolution. For projects submitted to CDLAC after December 31, 2016, the Regulatory Agreement shall terminate prior to the end of the CDLAC Resolution affordability term only in the event of (i) involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action of a federal agency after the bond issuance which prevents the Issuer, Fiscal Agent and/or the Trustee (as applicable) from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, and/or transfer of title by deed in lieu of foreclosure in connection with a deed of trust directly or indirectly securing the repayment of Standard Permanent Bonds, or repayment of a non-Bond related obligation that provides permanent project financing and meets the requirements of section 5193 or condemnation or a similar event, but only if, in the case of the events described in either clause (i) or (ii) above, the bonds are redeemed within a reasonable period or the proceeds for the event are used to provide a project that meets the requirement of the Regulatory Agreement.

(b) If Cash Flow Permanent Bonds finance project costs in projects submitted to CDLAC after December 31, 2016, all units identified in the CDLAC resolution, including both the Federally Bond-Restricted Units and the Other Restricted Units, will be incorporated into the Bond Regulatory Agreement. Assumptions to be included in the Bond Regulatory Agreement regarding the Other Restricted Units will include the AMI as outlined in the CDLAC resolution, a limitation that tenants pay no more than 30% of their income, and 1.5 person per bedroom occupancy standard to determine the applicable rent.

(c) For projects receiving allocation after December 31, 2016, The Bond Regulatory Agreement will:

- (1) Incorporate the CDLAC resolution by reference and as an attachment;
- (2) Have a term consistent with the income and rental restrictions established in the Resolution. The Bond Regulatory Agreement shall terminate in ~~an Open Application process~~ 55 years (50 years for Projects located on Native American Lands, and in a Competitive Application Process 30 years), from the date 50% occupancy is achieved or the commencement of the CDLAC Qualified project period, whichever date is earlier;
- (3) Include all applicable income and affordability requirements outlined in 26 U.S.C. § 142, Cal. H&S Code § 34312.3 (c )(1) & (2), Cal. H&S Code § 51335(a), and Cal. H&S Code § 52080 (a)(1);
- (4) Clarify that compliance with items not contained within the body of the Bond Regulatory Agreement but referred to in the CDLAC resolution are the responsibility of the Sponsor to report to the Issuer;
- (5) Designate CDLAC to receive notice of changes in ownership, Issuer, project name and management company; and
- (6) Designate CDLAC to receive all notices regarding defaults associated with the rents and income requirements, Bond Default, Qualified Bond Default, and regulatory termination.

(d) Where a Project is receiving renewable project-based rental assistance or operating subsidy:

- (1) the Sponsor shall in good faith apply for and accept all available renewals; and
- (2) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall immediately notify CDLAC in writing and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the CDLAC resolution. Upon documenting to CDLAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for rent restricted units above the levels allowed by the CDLAC resolution up to the federally and state- permitted maximums. Rents shall be raised only to the extent required for financial feasibility, as determined by CDLAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve

affordability for units regulated by CDLAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's financial feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

### **Section 5230. Evaluation Criteria.**

~~(a)—The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Any points awarded in this section shall be rounded to the nearest one-tenth decimal place unless otherwise stated in this section. Each of the items in this section shall be memorialized in the Committee Resolution.~~

~~(b)—Preservation Projects. Projects meeting the following criteria shall receive the following points, up to a maximum of 20 points:~~

~~(1)—a project subject to a Residential Rental Regulatory Agreement or a local, state, or federal rental or operating assistance contract, or a project subject to an expired residential rental agreement that continues the rental structure prescribed by the expired residential rental agreement, as demonstrated by a copy of the executed agreement or contract, shall receive ten (10) points;~~

~~(2)—a project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it receives state or federal rental assistance or a state, federal, or local operating subsidy and, as a result, the rents are limited in at least fifty percent (50%) of the Project's tenant units to no more than thirty percent (30%) of each such unit's tenants' income, as demonstrated by a copy of the executed agreement or contract;~~

~~(3)—a Project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it has income restricted tenant paid rents for each Restricted Rental Unit type that on average are at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties, as demonstrated in a market study meeting the requirements of section 5200(c) and in a table utilizing three (3) market comparable properties for each restricted unit type in the Project. Projects currently subject to Hold Harmless Rents pursuant to the 2008 Federal Housing and Economic Recovery Act may continue to use Hold Harmless Rents in an application when rents are below federal set aside limits and applicable state requirements. If the project is currently subject to Hold Harmless Rents, Applicant must provide the year the project was placed in service.~~

~~(c)—Exceeding the Minimum Income Restrictions (35 points maximum for Qualified Residential Rental Projects other than Mixed Income Projects, 15 points maximum for Mixed Income Projects). Points will be awarded as set forth below for the percentage of units that are Restricted Rental Units. The Gross Rent definition will apply to the rents calculated in this subdivision.~~

~~(1)—For each ten percent (10%) increment of units restricted at fifty percent (50%) of AMI or below, Qualified Residential Rental Projects other than Mixed Income Projects will receive seven (7) points, and Mixed Income Projects will receive three (3) points (fractional percentages above the minimum 10% increment will be calculated on a pro rata basis and the total points calculated will be rounded to the nearest whole number).~~

~~(2)—For each ten percent (10%) increment of units restricted at greater than fifty percent (50%) of AMI, and up to sixty percent (60%) of AMI, Qualified Residential Rental Projects other than Mixed Income Projects will receive two (2) points, and Mixed Income Projects will receive one-half (½) point.~~

~~(d)—Gross Rents (5 points).~~

~~(1)—Five (5) points will be awarded to Projects that are not subject to the use of Gross Rents but voluntarily do so to define Restricted Rental Units as evidenced by one of the following:~~

(A)—A letter from the local public housing authority that includes a current utility allowance schedule, certifies that the proposed Project is located within its jurisdiction and itemizes which components of the utility allowance schedule applies to the Project. Projects that are subject to a Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program do not require a housing authority certification and may rely solely on the utility allowance included in a HUD-rent schedule provided the schedule specifically identifies the name of the Project.

(B)—If a Project is to be substantially retrofitted for energy conservation or will be newly constructed with substantial energy conservation, the Applicant may submit revised utility allowances based on the projected reduction in utility costs after construction or retrofit. The revised utility allowances shall be validated by either of the following:

1.—A letter from the public utility or housing authority having jurisdiction over the Project that validates the revised utility allowances based on the proposed use of energy conservation materials, or A current utility allowance estimate consistent with 26 CFR section 1.42-10. The Applicant must indicate which components of the utility allowance schedule apply to the Project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission; and in accordance with the California Tax Credit Allocation Committee's minimum requirements for utility allowance estimates, Title 4, Division 17, Chapter 1, Section 10322(h)(21).

(c)—Exceeding the Minimum Rent Restrictions (10 points maximum). One (1) point will be awarded for each percentage point the highest rental rate of each Restricted Rental Unit type (defined by bedroom count) is more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. . . .

(f)—Exceeding the Minimum Term of Restrictions (10 points maximum). If the Committee establishes a Competitive Application Process, Applications that maintain the Qualified Project Period for longer than thirty (30) years will be awarded two (2) points for every five (5) years of affordability beyond thirty (30) years.

(g)—Large Family Units (5 points). Five (5) points will be awarded to those Projects where at least twenty-five percent (25%) of the Restricted Rental Units are three-bedroom or larger units.

(h)—Leveraging (10 points maximum):

(1)—Applications that include Public Funds as a permanent funding source are eligible for points:

All Public Funds must be committed by a public entity at the time of Application. Evidence provided shall signify the form of the commitment, the amount of the loan, grant or subsidy, the length of the term of the commitment, conditions of participation, express authorization from the governing body or an official expressly authorized to act on behalf of said governing body, committing the funds, and the Project Sponsor's acceptance. Commitments shall be final and only subject to conditions within the control of the Project Sponsor. Funding commitments shall be from funds within the control of the entity making the commitment at the time of the Application. One (1) point will be awarded for every dollar of Public Funds committed as a percentage of total development costs (minus developer fees):

(2)—Applications that include Taxable Debt as a permanent funding source, in addition to tax-exempt Bond financing, are eligible for points based on the degree that the Taxable Debt supplants the use of tax-exempt Bond financing. The requirement for using Taxable Debt will be included in the Committee Resolution. Taxable Debt may only be utilized for project related expenses, not for the cost of issuance, for which the Applicant could otherwise have used tax-exempt financing in order to receive points under this category. One-half (1/2) of a point will be awarded for every dollar of Taxable Debt committed as a percentage of total development costs (minus developer fees):

(i)—Community Revitalization Area Criteria (5 points). Projects meeting the following criteria will receive 5 points:

(1)—The project is located within:

(A)—any Qualified Census Tract or equivalent geographic area defined by the Census Bureau in which

at least fifty percent (50%) of the households have an income of less than sixty percent (60%) AMI; or

(B) a Federal Promise Zone; and

(2) The development will contribute to a concerted Community Revitalization Plan as demonstrated by a letter from a local government official. The letter must delineate the community revitalization efforts, including but not limited to:

(A) community enhancement services in the neighborhood, including but not limited to, job training or after-school enrichment programs;

(B) funds, not including funds for the proposed project, that have been expended in the past three (3) years, that are being expended or that are committed to be expended to improve the community infrastructure, including, but not limited to, parks, storm water systems, sewer systems, or street improvements of the overall area;

(C) projects, including but not limited to, retail, office and housing that contributes to community revitalization that have been completed within the past three (3) years, are underway or are committed to be completed; and

(D) how the project would contribute to the community's revitalization.

(j) Site Amenities (10 points maximum)

(1) The Committee will award points to Applications with site amenities as described in this subdivision. Except as specifically set forth in this section, points will be awarded only for those amenities that exist at the time of Application. Applicants requesting points for site amenities that do not currently exist must include a letter from the controlling entity, signed by an authorized individual representing the entity, that states the funds for the amenity are committed, and the amenity is planned. The letter shall also state the anticipated date for the amenity to be placed in service, which shall not be more than two (2) years after the date the Project is anticipated to be placed in service.

(2) Points will be awarded provided the site amenities are appropriate for the population served, and a scaled-for distance map showing the location of the Project and amenities is provided as follows:

(A) Points will be awarded for the following Transit amenities:

1. Two and one-half (2 ½) points for projects located within one-third (1/3) mile of a Public Transit Corridor or, for Rural Projects where there is no public transportation system, to projects using a van or dial-a-ride service; or

2. Two and one-half (2 ½) points for projects located within one-half (1/2) mile of a High Quality Transit stop or station.

3. Projects eligible for points in subsection (A)(1) or (2) will receive the following additional points for committing to provide to residents monthly passes for the transit amenity for which the project received points at no cost or priced at no more than half of retail cost. Passes shall be made available on a first-come, first-served basis to all tenants of rent-restricted units for at least 15 years:

a. three (3) points for at least one pass per rent-restricted unit.

b. one and one-half points (1½) for at least one pass per each 2 Rent-Restricted units.

(B) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a park or recreational facility.

(C) Points will be awarded under 1 of the 2 following categories: i) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile (1 mile for Rural Projects) of a full-service grocery store of at least 25,000 gross interior square feet; or ii) Two and one-half (2 ½) points will be awarded to Projects located within one-fourth (1/4) mile (one-half (½) mile for Rural Projects) of a full-service grocery store of at least 5,000 gross interior square feet. Evidence shall include, but is not limited to, the following: a signed letter from a county assessor or city planner for that jurisdiction

certifying the square footage of the grocery store, a letter from the store manager, or a letter from the Project's architect. The letter must state the square footage of the grocery market. A full-service grocery store shall mean for the purpose of this section a store or market that provides at minimum, food staples, fresh meats and/or poultry, dairy products, and produce, as well as other personal and household products and sundries.

(D) Two and one-half (2 1/2) points will be awarded to Projects located near a school. The site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school that children living in the development may attend (an additional 1/2 mile for each public school type for Rural projects) and that the site is within the attendance area of that school. Projects where all units are restricted to households having members 55 years or older, shall not be eligible for points in this category. Evidence shall include, but is not limited to, the following: a signed letter from the school district with the appropriate Project address stating said address is within the boundaries of the school, or documentation from an internet-based school locator tool.

(E) Two and one-half (2 1/2) points will be awarded to Projects located within:

1. 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic:

a. that has a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week; and

b. that accepts Medi-Cal and Medicare payments, or Health Care for the Homeless for projects housing homeless populations, or that has an equally comprehensive subsidy program for low-income patients; or

2. 1 mile (for Rural set-aside projects, 1.5 miles) of a hospital (not merely a private doctor's office); or

3. 1/2 mile (for Rural projects, 1 mile) of a pharmacy.

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

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

(k) Sustainable Methods (10 points maximum).

(1) Points will be awarded provided that the Project Sponsor and the licensed Project architect each submit a certification indicating which items, commencing with subdivision (k)(3) of this section, will be included in the Project's design and any relevant specifications. For the purposes of this paragraph, "certification" by the Project Architect has the same meaning as set forth in Business and Professions Code Section 5536.26.

(2) The Project Sponsor shall submit a certification at Project completion from the Project's licensed architect that the design elements that formed the basis for any award of points pursuant to subdivision (k) have been met or exceeded. For the purposes of this paragraph, "certification" by the Project Architect has the same meaning as set forth in Business and Professions Code Section 5536.26. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under subdivision (k) who fails to meet this requirement will be subject to negative points under subdivision (n) of this section.

(3) Five (5) points will be awarded to Projects that commit to no irrigation, or to irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens) provided that the offset of potable water equals or exceeds 10,000 gallons annually.

(4) Two (2) points will be awarded to Projects that commit to having at least one (1) nonsmoking building. If the proposed Project contains only one (1) building, the Project is subject to a policy developed by the Sponsor that prohibits smoking in contiguous designated units. In both

circumstances these restrictions shall be incorporated into the lease agreements for the appropriate units.

(5) Two (2) points will be awarded to Projects that commit to a parking ratio equivalent to or less than 1 parking stall per single room occupancy or one bedroom restricted rental unit and 1.5 parking stalls per two bedroom or larger restricted rental unit.

(6) New Construction and Adaptive Reuse Projects: Up to five (5) points will be awarded to projects that commit to developing the project in accordance with the California Tax Credit Allocation Committee's minimum requirements for energy efficient programs, Title 4, Division 17, Chapter 1, Section 10325 (c).

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

(8) Rehabilitation Projects: Points are awarded based on the energy efficiency criteria described for Rehabilitation Projects in The California Tax Credit Allocation Committee regulations, Title 4, Division 17, Chapter 1, Section 10325(c).

(9) Compliance and Verification. The form of evidence shall follow that described in Title 4, Division 17, Chapter 1, Section 10325(c). Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to CTCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit Evidence of Compliance to CDLAC.

(I) Service Amenities (10 points maximum).

(1) Points will be awarded provided the Project Sponsor certifies the following:

(A) Service amenities must be appropriate to the tenant population served and committed to for a minimum of fifteen (15) years. Programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be designed to generate positive changes in the lives of tenants, such as increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.

(B) Services must be provided on-site except that Projects may use off-site services within a one-half (½) mile of the Project (one and one-half (1½) miles for Rural projects) provided that they have a written agreement with the service provider at the time of Application enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Projects may use off-site services located more than one-half (½) mile from the Project (one and one-half (1½) miles for Rural projects) provided that they have a written agreement with the service provider at the time of Application enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative, and a written agreement at the time of Application demonstrating that tenants will be provided with free of charge round-trip transportation between the development and the off-site services. Referral services will not be eligible for points.

(C) Contracts with service providers, service provider experience, and evidence that physical space will be provided on or off-site must be documented within the Application. Documentation must be provided for each category of services for which the Applicant is claiming service amenity points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state annual value of the services; commit that services will be provided for a period of at least one (1) year; and name the project to which the services are being committed. Evidence shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category. All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals



may not be substituted for organizational experience.

(D)—The Application must propose a combined annual value of at least \$10,000, or \$5,000 for Projects of twenty (20) units or fewer, for those services. In addition, any donated services must be assigned a dollar value by the provider of those services. Applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the Project's services program.

(2) Points will be awarded in this subdivision as follows:

(A)—Five (5) points to family Projects with after-school programs of an ongoing nature. Programs shall include, but are not limited to: tutoring, mentoring, homework club, art and recreation activities. Programs shall be provided on weekdays throughout the school year for at least 10 hours per week.

(B)—Five (5) points to Projects with instructor-led educational classes, health and wellness, or skill-building classes, including but not limited to: financial literacy, computer training, home-buyer education, GED, resume building, ESL, nutrition, exercise, health information/awareness, art, parenting, on-site food cultivation and preparation, and smoking cessation. Instruction is to be provided a minimum of 84 hours per year (drop-in computer labs, monitoring or technical assistance shall not qualify).

(C)—Five (5) points to Projects with licensed childcare providing 20 hours or more per week (Monday through Friday) to residents of the development.

(D)—Five (5) points to Projects with wellness services and programs, such services and programs shall provide individualized support for tenants (not group classes) but need not be provided by licensed individuals or organizations. The services and programs shall include, but are not limited to: visiting-nurses programs, intergenerational visiting programs, and senior companion programs. The services and programs shall be provided for a minimum of 100 hours per year.

(E)—Five (5) points to Projects with a full time equivalent (FTE) bona fide service coordinator/social worker available, provided that the experience of the coordinator, the duties of the coordinator and a budget to pay for the coordinator are included in the Application. The minimum number of hours per year for the full time equivalent service coordinator/social worker will be calculated based on the formula: 1) the number of bedrooms X 0.0017 = FTE multiplier; then 2) FTE Multiplier X 2,080 = minimum number of hours per year (up to a maximum of 2,080 hours). The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.)

(m)—New Construction and Substantial Rehabilitation Projects (10 points). Ten (10) points will be awarded to new construction, substantial renovation or adaptive re-use Projects with Restricted Rental Units.

(n)—For projects subject to the Competitive Application Process, one (1) point will be awarded for each one percent (1%) of foregone eligible developer fee, as determined by the California Tax Credit Allocation Committee, pursuant to Title 4, Division 17, Chapter 1, Section 10327, up to a maximum of ten (10) points.

(o) Negative Points (No maximum):

(1)—The Committee will deduct points for an Application involving a Project Sponsor that has been or is a Related Party to a Project Sponsor (i.e. in the ownership structure) for which an Allocation has been awarded as follows:

(A)—Ten (10) points will be deducted for each failure to fully utilize the committed public subsidies or Taxable Debt for which points were awarded in connection with the prior Allocation, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control or the amount not utilized is not material. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(B)—Ten (10) points will be deducted for each failure to issue Bonds that results in the full amount of

the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) succeeding years (10 points each year) following the year Allocation was awarded.

(C) Ten (10) points will be deducted for each failure to spend the proceeds of Bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control, the amount not spent is not material, or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will be assessed against the Project Sponsor for a period of three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

(D) Ten (10) points will be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction will be assessed for a period of three (3) calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.

(2) Where CTCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.

(3) Where CTCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.

(4) Multiple or repeated failures of subdivisions (n)(1) or (3) of this section may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

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

(b) Preservation and Other Rehabilitation Project Priorities (20 points maximum). Preservation and Other Rehabilitation Projects meeting the following criteria shall receive points in the highest scoring category only:

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

(2) A project that meets at least one of the following shall receive 14 points: (A) A project with a pre-2000 HCD loan that is being restructured pursuant to Section 50560 of the Health and Safety Code (AB 1699) that has not previously received an allocation of Low-Income Housing Tax Credits:

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

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

(C) A project with a pre-1999 HCD loan that is being restructured pursuant to Section 50560 of the Health and Safety Code (AB 1699) that has not previously received an allocation of Low-Income Housing Tax Credits.

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

- (A) Project-Based Section 8 or Rent Supplement,
- (B) USDA Rent Supplement,
- (C) Section 236 Financing,
- (D) Section 221(d)(3) Financing,
- (E) USDA 514 or 515 Financing, or
- (F) Department of Housing and Community Development Financing (including AB 1699 projects that have previously received an allocation of Low-Income Housing Tax Credits).

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

- (1) The local jurisdiction has approved the project pursuant to Section 65913.4 of the Government Code, at a density greater than that allowed by the site's zoning through the use of a density bonus allowed by Government Code Section 65915 or a local ordinance, or with concessions and/or waivers granted pursuant to Government Code Section 65915;
- (2) The project is being developed at a per net acre density that meets one of the following criteria:
  - (A) 100 bedrooms per net acre in a metropolitan county;
  - (B) 60 bedrooms per net acre in a suburban jurisdiction;
  - (C) 40 bedrooms per net acre in all other areas.

*[For the purposes of this paragraph, "net acre" is defined as the acreage within the parcel boundaries after subtracting any area affected by the dedication of public right-of-way, the presence of restrictive easements, and non-buildable areas. "Metropolitan county" and "suburban jurisdiction" shall have the same meaning as in Section 65583.2 of the Government Code. Projects with land-use approvals obtained prior to January 1, 2022 shall earn full points in this category.]*
- (3) The project is located in a city or unincorporated portion of a county for which HCD has designated the city or county, respectively, as pro-housing pursuant Section 65589.9(c) of the Government Code.

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

- (1) 2 points for each full percent that the average affordability of tax credit units is less than 60% of area median income subject to the Gross Rent definition; or
- (2) 20 points if the average affordability of tax credit units is less than or equal to 60% of area median income, provided that at least 10% of tax credit units are restricted at or below 30% of area median income and an additional 10% of tax credits units are restricted at or below 50% of area median income, subject to the Gross Rent definition.

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

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

- (1) A project shall receive general partner experience points in one of the following manners:
  - (A) The number of general partner experience points for which it is eligible pursuant to Section 10325(c)(1)(A) of the ~~CTCAE~~CTCAC regulations.
  - (B) 7 points if the project is a joint venture between an entity which receives maximum general experience points pursuant to Section 10325(c)(1)(A) of the ~~CTCAE~~CTCAC regulations and a ~~BIPOC~~BIPOC, provided that the partnership

agreement (i) allocates a share of the developer fee, cash flow, and net sale proceeds to the BIPOC BIPOC that is equal to or greater than the share to the entity with maximum general experience points and (ii) provides the BIPOC BIPOC Developer an option to purchase the development.

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

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

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

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

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

(1) The project meets the criteria for any of the housing types described in Section 10325(g) of the CTCAC CTCAC regulations. Points will be awarded only in one housing type

(2) The project meets the requirements of subdivision (c) of this section or is a New Construction Project that obtained all land use approvals prior to January 1, 2022.

(h) Leveraged Soft Resources (8 points maximum). A project shall receive 1 point for each full percent that leveraged soft resources defraying residential costs represent as a percentage of total residential project development costs, except that a New Construction Project that receives points as a Large Family, or Special Needs project pursuant to the conditions specified in Section 5230(j)(1)(A) and is located in a High or Highest Resource Area as specified on the CTCAC CTCAC/HCD Opportunity Area Map shall receive 2 points for each full percent of leveraged soft resources. For purposes of this subdivision, leveraged soft resources shall have the same meaning as in Section 10325(c)(9) of the CTCAC CTCAC regulations.

(i) Readiness to Proceed (10 points maximum). A project shall receive the number of points for which it is eligible pursuant to Section 10325(c)(7) of the CTCAC CTCAC regulations, except that the applicant shall commit to commence construction within 180 days of the bond allocation. Projects that receive the maximum number of points pursuant to this subdivision shall submit within that time period, evidence that meets the requirements of Section 10325(c)(7) of the CTCAC CTCAC regulations. Failure to meet the 180-day due date shall result in rescission of the bond allocation or negative points.

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

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

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

(B) 9 points if the project receives points as a Large Family project pursuant to Section 5230(g), is located in a Moderate (Rapidly Changing) or Moderate Resource Area as specified on the CTCAC CTCAC/HCD Opportunity Area Map, and at least 10% of tax credit units shall be restricted at

30% of area median income and an additional 10% of tax credits units shall be restricted at 50% of area median income. In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the CTCAC regulations.

(C) 9 points if the project receives points as a Large Family project pursuant to Section 5230(g), is located in a Low Resource or High Segregation and Poverty Area as specified on the CTCAC/HCD Opportunity Area Map, has income and rent restrictions:

a) with at least a 40% AMI spread between the lowest restricted unit, which shall be no lower than 30% AMI, and the highest restricted unit with at least 10% of the units at the upper end of the range, provided that these upper-end restricted rents are at least 10% below market rents, and if this condition is not achievable as evidenced by the market study, or if the Low Resource or High Segregation and Poverty Area in which the project is located is adjacent to a High or Highest Resource Area, the project shall be permitted to reduce the AMI spread from 40% to 30%, but in no case shall the upper-end restricted units drop below 60% AMI, or b) consistent with the restrictions of a public funding source that was made available prior to December 31, 2020 and (i) the sponsor is one of the following:

1) a BIPOC that has maintained a headquarters or office within five miles of the project for a period of five years prior to the application; 2) a Community Housing Development Organization (CHDO) as certified by the local participating jurisdiction in which the QRRP will be located; 3) a sponsor who has previously developed affordable housing within the community in which the QRRP will be located in the past 20 years; or 4) a sponsor who has continually, during the prior 10 years preceding the application date, provided educational, health or economic development services to the community in which the QRRP will be located; or (ii) the project is one of the following: 1) located within a Community Revitalization Area, or 2) the project is funded in part with an award from the California Department of Housing and Community Development pursuant to a notice of funding availability issued on or before December 31, 2020. In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the CTCAC regulations.

(D) 9 points if the project does not receive points as a Large Family project pursuant to Section 5230(g) and receives the maximum points for exceeding minimum income restrictions pursuant to subdivision (d). In addition, the project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the CTCAC regulations.

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

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

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

targeting pursuant to Section 10327(c)(5)(C) of the CTCAC regulations shall be limited to 80%.

(m) Negative Points (no maximum).

(1) The Committee may deduct points for an Application involving a Project Sponsor that has been or is a Related Party to a Project Sponsor (i.e. in the ownership structure) for which an Allocation has been awarded as follows:

(A) Ten (10) points may be deducted for each failure to fully utilize the leveraged soft resources for which points were awarded in connection with the prior Allocation, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control or the amount not utilized is not material, or is the result of voluntarily returning leveraged soft resources due to the project being over-sourced. This deduction may be assessed against the Project Sponsor for a period of up to two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(B) Ten (10) points may be deducted for each failure to issue Bonds that results in the full amount of the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction may be assessed against the Project Sponsor for a period of up to two (2) succeeding years (10 points each year) following the year Allocation was awarded.

(C) Ten (10) points may be deducted for each failure to spend the proceeds of Bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control, the amount not spent is not material or is consistent with the requirements of Section 5052(b), or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction may be assessed against the Project Sponsor for a period of up to three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

(D) Ten (10) points may be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction may be assessed for a period of up to three (3) calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.

(2) Where CTCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.

(3) Where CTCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.

(4) Multiple or repeated failures of paragraph (1) may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.



**Section 5231. Ranking.** After all of Applications for Qualified Residential Rental Projects are evaluated pursuant to section 5230, the Applications will be ranked and may be awarded an Allocation as follows:

(a) Applications for ~~Mixed-RuralIncome~~ Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for ~~Mixed-IncomeRural~~ Projects awarded the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the ~~Mixed-IncomeRural~~ Pool.

Applications for ~~Mixed-IncomeRural~~ Projects not receiving an Allocation will not be eligible for consideration for an Allocation under subdivisions (b) ~~or~~ (c) or (e) of this section.

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

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

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

(e) Applications for Qualified Residential Rental Projects that are not New Construction Projects, exclusive of Rural Projects will then be ranked together. Applications receiving the greatest number of points after factoring in the tie breaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the New Construction Pool in the following manner.

(1)(A) Set Aside application selection. Beginning with the top ranked application from the Homeless Set Aside, subject to the conditions in Section 5231(e)(1)(B), followed by the Extremely Low/Very Low Income Set Aside, and the Mixed Income Set Aside, the highest scoring applications in each Set Aside shall be awarded an Allocation pursuant to the procedures in Section 5231(f). A project that meets the criteria of both the Homeless Set Aside and the Extremely Low/Very Low Income Set Aside shall be eligible for an allocation from either Set Aside. All New Construction Projects, exclusive of Rural Projects, that do not receive an allocation from a Set Aside shall be eligible for an allocation from their respective geographic region pursuant to paragraph (2). (B) For purposes of the Homeless Set Aside only, applications for projects in which 100% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTCAC regulations shall be awarded an Allocation prior to any other application eligible for the Homeless Set Aside provided that such projects earn at least 95% (rounded down to the nearest whole number) of the maximum available points pursuant to Section 5230.

(2) Geographic region application selection. Bonds available in the New Construction Pool that are not reserved to a Set Aside shall be allocated to the highest ranking applications according to the geographic allocation described in Section 5022. Projects receiving an allocation in the Rural, Preservation, Other Rehabilitation, or ~~BIPOC~~BIPOC Pools or in the Homeless, Extremely Low/Very Low Income, and Mixed Income Set Asides shall not be counted towards the geographic apportionments.

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

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

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

(g) If two or more Applications are awarded the same total number of points, these Applications will be ranked according to the lowest amount of cost-adjusted Bond and State Credit Allocation per bedroom-adjusted units targeted at or below 100% AMI, so long as such units are rent restricted and regulated for a period of at least 30 years.

(1) The cost-adjusted Bond and State Credit Allocation shall be calculated by subtracting the product of the unadjusted Bond and State Credit Allocation request and the sum of the statewide basis delta for the county in which the project is located and the higher resource area bonus from the unadjusted Bond and State Credit Allocation request. At least ten days prior to the first application deadline of each calendar year, the Committee shall publish the statewide basis delta for each county, which shall represent the percentage difference between the two-bedroom 4% tax credit threshold basis limit for the county and the lowest two-bedroom 4% tax credit threshold basis limit for any county in the state as those limits are determined by CTCAC pursuant to Section 10302(rr) of the CTCAC regulations, except that the percentage difference shall not exceed 30%. A New Construction Project that receives points as a Large Family project pursuant to the conditions specified in Section 5230(j)(1)(A) and is located in a High or Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map shall receive a higher resource area bonus equal to 20%. In addition, a project that receives points as a Special Needs project pursuant to Section 5230(g) and in which at least 50% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTCAC regulations shall also receive a bonus equal to 20%.

(2) To calculate a project's per bedroom adjusted units, the Committee shall first multiply the number of units of each bedroom count by the adjustment factor for units of that bedroom count.

A project's per bedroom adjusted units shall be the sum of each of these products. The adjustment factors shall be:

(A) .9 for a studio unit.

(B) 1 for a 1-bedroom unit.

(C) 1.25 for a 2-bedroom unit.

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

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

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

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Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 69.85(a), and 8869.85(b), Government Code.

**Section 5232. Competitive Application Process Maximum Allocation Amount.** (a) For projects subject to the Competitive Application Process, the Committee will allocate no more than ~~fifty-seventy-five~~ million dollars (\$~~7550~~,000,000) for any proposed Qualified Residential Rental Project. Where a proposed Qualified Residential Rental Project is located within one-fourth (1/4) mile of another Qualified Residential Rental Project involving the same Project Sponsor or a Related Party to the Project Sponsor, the Allocation amounts for the Qualified Residential Rental Projects cannot, in the aggregate, exceed ~~fifty-seventy-five~~ million dollars (\$~~5075~~,000,000) within a calendar year.

(b) The Committee may waive this maximum allocation amount if the Committee determines that the demand for allocation for Qualified Residential Rental Projects is such that the maximum allocation amount is not warranted. An Applicant requesting an Allocation in excess of ~~fifty-seventy-five~~ million dollars (\$~~5075~~,000,000) may seek a waiver from the Committee based on the following factors:

- (1) The Qualified Residential Rental Project qualifies as a ~~Federally-Assisted~~-At-Risk Project; or
- (2) Documentation is provided in the Application indicating why a Qualified Residential Rental Project cannot be developed in phases at a ~~fifty-seventy-five~~ million dollars (\$~~5075~~,000,000) level. The documentation must be specific and may include, but is not limited to, a site plan detailing the layout of the subject property, unit mix per stage of the phase, any unique features of the property which inhibits phasing, a description of infrastructure costs, and a cost breakdown by phases.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5233. Allocation Limits.** (a) Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the ~~General and Rural Multifamily~~ QRRP Pools as follows:

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

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

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

**Section 5240. Supplemental Allocation Process.** (a) Requests for Supplemental Allocations may be submitted electronically during any Allocation Round. Staff shall review each request for Supplemental Allocation and make a recommendation to the Committee regarding any possible award of additional Allocation. Awards of Supplemental Allocations shall be memorialized in a Committee Resolution. Notwithstanding section 5241, all requirements imposed on ~~the associated the initial Allocation project Allocation~~, including, but not limited to, expiration of Allocation, Bond issuance deadlines, extensions, transfers of Allocation, carry-forward elections and reporting will be equally applicable to Supplemental Allocations.

(b) Requests for Supplemental Allocation submitted during Allocation Rounds conducted under an Open and Competitive Application Process may be made with a Supplemental Allocation Request Letter if the Project has received Allocation within the past thirty six (36) months. Supplemental Allocation Request Letters must be submitted by the Applicant and accompanied by the following requirements:

- (1) Posting of a performance deposit pursuant to section 5050.
- (2) Payment of a filing fee pursuant to section 5054.
- (3) Evidence of the Bond sale structure pursuant to article 6 of chapter 1.
- (4) An inducement resolution pursuant to section 5033(b)(4).

~~(5) A TEFRA Resolution pursuant to section 5033(b)(5).~~

~~(6)~~(5) Updated sources and uses sections of pages 7-9 with associated attachments E, G, and H of the Standard QRRP Application.

~~(7)~~(6) Verification of Zoning and Local Approvals pursuant to section 5190(b).

~~(8)~~(7) An updated Attachment Y of the Standard QRRP Application.

~~(9)~~(8) An original and copy of the material noted in sub-section (b)(1) through (b)(8) must be submitted electronically to cdlac@treasurer.ca.gov no later than the applicable application deadline.

(c) Supplemental Allocation requests for Projects that have received Allocation more than thirty six (36) months prior or are submitted during a Competitive Application Process must comply with the process for filing a new complete Application pursuant to article 4 of chapter 1 and the appropriate provisions of this chapter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

**Section 5241. Realignment of Expiration Dates.** Projects awarded a Supplemental Allocation during an Open Application Process for which no Bonds were issued from the original award of Allocation shall have the expiration date of the original award extended to match the expiration of the Supplemental Allocation award. Projects awarded a Supplemental Allocation during a Competitive Application Process for which no Bonds were issued from the original award of Allocation shall have the expiration date of the original award. The Executive Director will have authority to extend the original bond issuance deadline date.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5251. Evaluation Criteria.** Each site within an Application for a Scattered Site shall be evaluated individually for points as provided in section 5230. The total points awarded to a Project in any category shall be based on the pro-rata share of total units each site represents. For instance, if only one site meets the threshold for an award of 5 points ~~as provided in 5230(g)~~, and the site represents 40% of total units, the Project shall be awarded two (2) points for this category (40% x 5 points).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5422. Permits.** The Applicant must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project ~~at the time of Application~~ prior to Committee approval. Applicants are not required to have obtained ministerial approvals at the time of Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5432. Non-Solid Waste Projects.** Applications for Exempt Facility Projects or programs, other than solid waste disposal facilities not otherwise included in these regulations, but eligible for consideration for Qualified Private Activity Bond Allocation as an Exempt Facility Project will be considered pursuant to section 5423. Projects may include, but are not limited to, Bonds issued by a government agency to acquire any property from an investor-owned utility, sewage facilities, facilities for the furnishing of water, facilities for the local furnishing of electric energy or gas, qualified hazardous waste facilities, mass commuting facilities, local district heating or cooling facilities, environmental enhancements of hydroelectric generating facilities, high-speed inter-city rail facilities, and the equipment only purchase programs administered by the California Pollution Control Financing Authority. Applications shall be reviewed on a Project-by-Project basis. ~~considering the public benefits proposed.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

~~**Section 5480. U.S. Treasury Designated Recovery Zone Bond Allocations.** The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities have been excluded: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code; Section 1400U-1, Internal Revenue Code.~~

**~~Section 5490. Application Process.~~** Allocations for the RZEDB Reallocation Pool shall be considered pursuant to article 4 of chapter 1 and the submission of a complete RZEDB Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

**~~Section 5491. Minimum Threshold Requirements.~~** Applications for the RZEDB Reallocation Pool will be subject to the following criteria:

~~(a) The maximum face amount of Bonds which may be reallocated to a Qualified Recovery Zone Bond Issuer shall not exceed ten million dollars (\$10,000,000) per Project. In the event the Allocation Round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum reallocation limit.~~

~~(b) One hundred percent (100%) of the available Project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities:~~

~~(1) Capital expenditures paid with respect to property located in such zone;~~

~~—(2) Expenditures for public infrastructure and construction of public facilities; and/or~~

~~—(3) Expenditures for job training and education programs.~~

~~(c) A legal memo from bond counsel which states that, based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Counsel must cite relevant federal tax code in their memo.~~

~~(d) The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of reallocation not to exceed ten percent of the original reallocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of Allocation and Project need.~~

~~(e) The Committee may grant an extension of the expiration date of the reallocation of up to thirty (30) calendar days but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.~~

~~(f) A county or large municipality that is only requesting all or a portion of reallocation that was voluntarily waived need only provide a written request and documentation that the Project is ready to issue Recovery Zone Economic Development Bonds prior to the expiration date of December 31, 2010.~~

~~(g) Counties and large municipalities assigned a Recovery Zone Economic Development Bond allocation must designate the area that Bonds will be utilized in a Recovery Zone and shall include the basis for the designation per 26 U.S.C. section 1400-1(b)B. The maximum face amount of Bonds which may be designated by an Issuer shall not exceed the amount of the recovery zone economic development Bond limitation awarded to such Issuer under 26 U.S.C. section 1400U-1.~~

~~(h) The proposed use of Bond proceeds must meet the following requirements per 26 U.S.C. section 1400U-2(b)(1):~~

~~(1) One hundred (100%) percent of the available Project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities;~~

~~(2) Capital expenditures paid with respect to property located within the zone;~~

~~(3) Expenditures for public infrastructure and construction of public facilities.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 869.82(a)(11)(B) and 8869.84(c), Government Code.



**Section 5492. Minimum Application Requirements.** ~~Applications for the RZEDB Reallocation Pool are exempted from the performance deposit requirement pursuant to section 5033(b)(1) and are subject to the following additional requirements:~~

- ~~(a) Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in article 4 of this chapter.~~
- ~~(b) An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their direct Recovery Zone Bond allocation has been assigned to the Project seeking reallocation. The letter should include the amount and type of Bonds committed, the name of the Project and the name of the department awarding the direct allocation.~~
- ~~(c) A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the Project. This requirement will only be required when the Issuer is an entity other than a municipality, such as a county or a conduit Issuer.~~
- ~~(d) A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZEDB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.~~
- ~~(e) The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the county or municipality.~~
- ~~(f) A request for an award that is Project specific.~~
- ~~(g) An estimate of the job impact that the proposed Project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs that will be created by funding of the proposed Project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed Project.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), and 8869.85(b), Government Code.~~

**Section 5493. Reallocation Priority System.** ~~Upon a determination that an Application has met the requirements set forth in sections 5491 and 5492 above, the following criteria will be used to evaluate, rank and award Allocations from the RZEDB Reallocation Pool:~~

- ~~(a) Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation Application process. As the Committee's first priority (Tier 1 Projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no Application will be required):~~
  - ~~— (1) A letter requesting the amount of allocation and a description of the proposed Project.~~
  - ~~— (2) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or inducement resolution.~~
  - ~~— (3) A letter of support or approval from the appropriate governing body or elected official's with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality, such as a county or a conduit issuer.~~
  - ~~— (4) A Recovery Zone Designation. The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone, and shall include the basis for the designation per U.S.C. 26 section 1400-1U(b). This requirement is demonstrated by a resolution approved by the local government requesting an award of Recovery Zone Economic Development Bond~~

allocation.

~~(5) The Qualified Recovery Zone Bond Issuer must provide a legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.~~

~~—(6) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for at least the amount of Bonds requested.~~

~~(b) Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 Projects) in the reallocation Application process. *The following counties will have second priority:* Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities will have second priority:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.~~

~~(c) Tier 3 Projects. All other Projects requesting Recovery Zone Economic Development Bonds shall be funded as Tier 3 Projects. Those agencies that fall into the Tier 1 category but request an award of reallocation beyond their waived amount will also fall into this category for their supplemental reallocation request. A complete Application will be required for the supplemental reallocation request.~~

~~—(d) Projects that fall into the Tier 1 category will be funded prior to all other Projects. Those Projects that fall into the Tier 2 category will be funded based on relative score of the Project's public benefits and prior to the funding of Tier 3 Projects. All Projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If there is an insufficient amount of Recovery Zone Economic Development Bond that have been Deemed Waived to fund all Allocation requests, CDLAC will establish a waiting list for all unfunded Projects that meet the minimum Application requirements. These Projects will be funded as Allocation is received by CDLAC.~~

~~—(e) Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to article 3 of this chapter, the Committee will divide the reallocation request by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested reallocation per job(s) created.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

**Section 5494. Undersubscribed Allocation.** ~~If the initial Recovery Zone Economic Development Bonds Allocation Round is undersubscribed, CDLAC will accept Recovery Zone Economic Development Bond Applications for the next scheduled Committee Allocation meeting, allowing for a minimum of thirty (30) days to review the Application.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

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### **Article 3. Specific Evaluation Criteria**

**Section 5500. Evaluation Criteria.** ~~CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the Applicant.~~

~~(a) Community Economic Need (30 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:~~

~~(1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Economic Development Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:~~

~~(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy five percent (175%) or more of the statewide average.~~

~~(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty five percent (125%) or more, but less than one hundred seventy five percent (175%), of the statewide average.~~

~~(2) Project Area Poverty Rate (10 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located, will be averaged, divided by the statewide poverty rate and multiplied by one hundred (100). The following points will be awarded accordingly:~~

~~(A) Ten (10) points to a Project located in an area in which the poverty rate is over one hundred twenty five percent (125%) of the statewide poverty rate.~~

~~(B) Five (5) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty five percent (125%) of the statewide poverty rate.~~

~~(3) Special Designation Area (5 points maximum). Excluding the Recovery Zone designation, points will be awarded provided the following is demonstrated:~~

~~(A) Evidence that the Project is located in a Special Designation Area.~~

~~(B) A scaled for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.~~

~~(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a Project benefit area that is smaller than a city or Census Designated Place, such as a census tract or tracts, smaller areas will be used.~~

~~(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets intent of the point category for which such information has been submitted.~~

~~(b) Job Creation (15 points maximum):~~

~~(1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation~~

requested in the Application will be divided by the amount of Job Creation as proposed by the Recovery Zone Economic Development Bond Project. Points will be awarded as follows:

(A) Fifteen (15) points to Projects creating or retaining one (1) job per \$35,000 or less of Allocation.

(B) Ten (10) points to Projects creating or retaining one (1) job per \$35,001 to \$50,000 of Allocation.

(C) Five (5) points to Projects creating or retaining one (1) job per \$50,001 to \$75,000 of Allocation.

(c) Welfare to Work Plan (5 points maximum). Points will be awarded where the Applicant proposes or is participating in a Welfare to Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.

(d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:

(1) Five (5) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.

(2) Three (3) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.

(3) One (1) point will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Economic Development Bond Project.

(e) Average Hourly Wage (5 points maximum). Applications will be awarded points based on a comparison of the Project Wage to the most recent Job Wage. The Project Wage will be divided by the Job Wage and multiplied by one hundred (100). Points will be awarded as follows:

(1) Five (5) points for a Project Wage that is one hundred twenty five percent (125%) or more of the Job Wage.

(2) Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty five percent (125%) of the Job Wage.

(3) One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.

(f) Land Use/Energy Efficiency (25 points maximum).

(1) Six (6) points will be awarded to Projects that reuse the following:

(A) Vacant or abandoned buildings; or

(B) Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space or other similar use).

(2) Seven (7) points will be awarded to Applications with Projects located within one quarter (1/4) mile of a Public Transit Corridor evidenced by a scaled for distance map showing the location of the Project is within a one quarter (1/4) mile radius of a Public Transportation Corridor. In areas where there is no public transportation system, seven (7) points will be awarded to Applications where the Applicant has an adopted transportation system management plan evidenced by a scaled for distance map showing the location of the Project is within a one quarter (1/4) mile radius of the planned Public

#### ~~Transportation Corridor.~~

~~(3) Twelve (12) points will be awarded to Projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the Project's total usage through Renewable Energy sources. Reduced energy usage shall be compared to the following benchmarks:~~

~~(A) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; and~~

~~(B) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Applicant. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.~~

~~(g) Leverage (15 points maximum). Applications will be awarded points where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the Project will include Taxable Debt such that it will supplant the use of tax-exempt Bond financing.~~

~~(1) Ten (10) points for Projects utilizing Taxable Debt or direct RZEDB Allocation greater than twenty percent (20%) of total Project costs.~~

~~(2) Five (5) points for Projects utilizing Taxable Debt or direct RZEDB Allocation greater than ten percent (10%) and up to twenty percent (20%) of total Project costs.~~

~~(3) Three (3) points for Projects utilizing Taxable Debt or direct RZEDB Allocation up to ten percent (10%) of total Project costs.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

#### **Article 4. Reporting Requirements**

**~~Section 5510. Reports and Timeframes.~~** ~~(a) CDLAC will require a Report of Action Taken be submitted upon the issuance of Bonds not more than three (3) business days following the issuance of RZEDBs. This report shall include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.~~

~~(b) Counties and large municipalities receiving designated RZEDB allocations must provide CDLAC with a Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.~~

~~(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010:~~

~~(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.~~

~~(2) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality such as a county or a conduit Issuer.~~

~~(3) A written memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.~~

~~(4) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will~~

automatically be Deemed Waived.

(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15th deadline may have their allocation Deemed Waived.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), 8869.86(c), and 8869.87, Government Code.

**Section 5520. U.S. Treasury Designated Recovery Zone Bond Allocations.**—The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities have been excluded:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.

## **Article 2. Application Process for the Recovery Zone Facility Bond Reallocation Pool**

**Section 5530. Application Process.**—Allocations for the RZFB Reallocation Pool shall be considered pursuant section to article 4 of chapter 1 and the submission of a complete RZFB Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.85(b), Government Code.

**Section 5531. Minimum Threshold** Requirements in Addition to the Minimum Application Requirements in Section 5033, Applications for the Recovery Zone Facility Reallocation Pool will be subject to the following criteria:

(a) The maximum face amount of Bonds which may be re-allocated to a Qualified Recovery Zone Bond Issuer shall not exceed twenty million dollars (\$20,000,000) per Project.

(b) In the event an Allocation Round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum reallocation limit.

(c) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.

(d) The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of reallocation not to exceed ten (10%) percent of the original reallocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of Allocation and Project need.

(e) The Committee may grant an extension of the expiration date of the reallocation of up to thirty (30) calendar days but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.

(f) The Qualified Recovery Zone Bond Issuer is required to estimate the job impact that the proposed Project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs that will be created by funding the Qualified Business Project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed Project.

(g) A county or large municipality that is only requesting all or a portion of reallocation that was



~~voluntarily waived need only provide a written request and documentation that the Project is ready to issue the Recovery Zone Facility Bonds prior to the expiration date of December 31, 2010.~~

~~(h) Counties and large municipalities assigned a Recovery Zone Facility Bond allocation must designate the area that Bonds will be utilized in, as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(b).~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 869.82(a)(11)(B) and 8869.84(c), Government Code.~~

**~~Section 5532. Minimum Application Requirements.~~** ~~Applications for the RZFB Reallocation Pool are required to submit the minimum requirements as provided in section 5033(b) in addition to the following requirements:~~

~~(a) Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in article 4 of this chapter.~~

~~(b) An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their Recovery Zone Bond allocation has been assigned to the Project seeking supplemental reallocation. The letter should include the amount and type of Bonds committed, the name of the Project, and the name of the department awarding Allocation.~~

~~(c) A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the Project. This requirement will only be required when the Issuer is an entity other than a municipality, such as the county or a conduit issuer.~~

~~(d) A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZFB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed Project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.~~

~~(e) The county or municipality must designate the area that Bonds will be utilized in as a Recovery Zone and shall include the basis for the designation per ARRA section 1400U-1(B). This requirement is demonstrated by a resolution approved by the county or municipality.~~

~~(f) A request for an award that is Project specific.~~

~~(g) Adopted TEFRA Resolution.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), and 8869.85(b), Government Code.~~

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**Section 5533. Reallocation Priority System.** Upon a determination that an Application has met the requirements set forth in section 5531 and 5532 above, the following criteria will be used to evaluate, rank and award Allocations from the RZFB Reallocation Pool.

~~(a) Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation Application process. As the committee's first priority (Tier 1 Projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following—documentation (no Application will be required):~~

- ~~——(1) A letter requesting the amount of allocation and a description of the proposed Project;~~
- ~~——(2) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution;~~
- ~~——(3) A letter of support or approval of the Project from the municipality's appropriate governing body or bodies or elected official. This requirement will only be required when the Issuer is an entity other than the municipality, such as the county or a conduit Issuer;~~
- ~~——(4) A Recovery Zone designation. The county or large municipality must designate the area that Bonds will be utilized in, as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the applicable county or large municipality.~~

~~(5) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.~~

- ~~——(6) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for at least the amount of Bonds requested.~~

- ~~——(b) Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 Projects) in the reallocation Application process. *The following counties will have second priority: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. The following cities will have second priority: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.*~~

- ~~——(c) Tier 3 Projects. All other Projects requesting Recovery Zone Facility Bonds are funded as Tier 3 Projects. Those agencies that fall into the Tier 1 category but request an award of reallocation beyond their waived amount will also fall into this category for their supplemental reallocation request. A complete Application will be required for the supplemental reallocation request.~~

- ~~——(d) Projects that fall into the Tier 1 category will be funded prior to all other Projects. Those Projects that fall into the Tier 2 category will be funded based on relative score of the Project's public benefits and prior to the funding of Tier 3 Projects. All Projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If there is an insufficient amount of Recovery Zone Facility Bonds Deemed Waived to fund all Allocation requests, CDLAC will establish a waiting list for all unfunded Projects that meet the minimum Application requirements. These Projects will be funded as Allocation is received by CDLAC.~~

- ~~——(e) Ranking Applications. Where two or more Applications are awarded the same amount of~~

- ~~——points pursuant to article 3 of this chapter the Committee will divide the reallocation request~~

- ~~by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested reallocation per job(s) created.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

~~**Section 5534. Undersubscribed Allocation.** If the initial RZFB Allocation Round is undersubscribed, CDLAC will accept Applications for the next scheduled committee Allocation meeting, allowing for a minimum of thirty (30) days to review the RZFB Application.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

### ~~**Article 3. Specific Evaluation Criteria.**~~

~~**Section 5540. Evaluation Criteria.** CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the applicant.~~

~~(a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:~~

~~(a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:~~

~~(1) Unemployment Rate (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Facility Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded accordingly:~~

~~(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.~~

~~(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.~~

~~(2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located, will be averaged, divided by the statewide poverty rate and multiplied by one hundred (100). The following points will be awarded accordingly:~~

~~(A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.~~

~~(B) Three (3) points to a Project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.~~

~~(3) Special Designation Area (5 points maximum). Excluding the Recovery Zone Area designation, points will be awarded provided the following is demonstrated:~~

~~(A) Evidence that the Project is located in a Special Designation Area.~~

~~(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.~~

~~(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to~~

identify a Project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)

(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.

(b) Job Creation (25 points maximum):

(1) Applications will be awarded points where the Applicant proposes to create jobs pursuant to the Job Creation definition as provided in section 5000 of chapter 1. The amount of the Allocation requested in the Application will be divided by the amount of Job Created proposed by the Recovery Zone Facility Bond Project and verified by the appropriate city or county official. Points will be awarded as follows:

(A) Twenty five (25) points to Projects creating one (1) job per \$35,000 or less of Allocation.

(B) Fifteen (15) points to Projects creating one (1) job per \$35,001 to \$50,000 of Allocation.

(C) Five (5) points to Projects creating one (1) job per \$50,001 to \$75,000 of Allocation.

(c) Welfare to Work Plan (5 points maximum). Points will be awarded where the Qualified Business proposes or is participating in a Welfare to Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or current participation is occurring that includes, at minimum, the manner and extent of the participation.

(d) Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:

(1) Five (5) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.

(2) Three (3) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.

(3) One (1) point will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee of the Recovery Zone Facility Bond Project.

(e) Average Hourly Wage (5 points maximum). Applications will be awarded up to five (5) points based on a comparison of the Project Wage to the Job Wage. The Project Wage will be divided by the Job Wage and multiplied by (100). Points will be awarded as follows:

(1) Five (5) points for a Project Wage that is one hundred twenty five percent (125%) or more of the Job Wage;

(2) Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty five percent (125%) of the Job Wage;

~~(3) One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.~~

~~(f) Land Use/Energy Efficiency (20 points maximum)~~

~~(1) Six (6) points will be awarded to Projects that reuse the following:~~

~~(A) Vacant or abandoned buildings; or~~

~~(B) Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space, or other similar use).~~

~~(2) Seven (7) points will be awarded to Applications with Projects located within one-quarter (¼) mile of a Public Transit Corridor evidenced by a scaled-for distance map showing the location of the Project is within a one-quarter (¼) mile radius of a Public Transportation Corridor. In areas where there is no public transportation system, seven (7) points will be awarded to Applications where the Applicant has an adopted transportation system management plan.~~

~~(3) Seven (7) points will be awarded to Projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the Project's total usage through Renewable Energy sources. Reduced energy usage shall be compared to the following benchmarks:~~

~~(A) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Non-Residential Buildings; and~~

~~(B) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Qualified Business. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.~~

~~(g) Leverage (15 points maximum). Applications will be awarded where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the Project will include Taxable Debt such that it will supplant the use of tax-exempt Bond financing.~~

~~(1) Ten (10) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt greater than twenty percent (20%) of total Project costs.~~

~~(2) Five (5) points for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt greater than ten percent (10%) and up to twenty percent (20%) of total Project costs.~~

~~(3) Three (3) point for Projects utilizing Taxable Debt, direct RZFB Allocation, or other tax-exempt debt of up to ten percent (10%) of total Project costs.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B) and 8869.84(c), Government Code.~~

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**Section 5550. Reports and Timeframes.**—(a) CDLAC will require a Report of Action Taken be submitted upon the issuance of Bonds not more than three (3) business days following the issuance of RZFBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.

(b) Counties and large municipalities receiving designated RZFB allocations must provide CDLAC with a Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by the deadline set forth by the Committee may automatically have their allocation Deemed Waived and captured by CDLAC for reallocation. If the Plan of Issuance does not support the full amount of the designated allocation, the excess amount may be Deemed Waived.

(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010:

(c) Counties and large municipalities that have not issued their entire designated allocation by August 15, 2010 award are required to submit the following documentation, no later than August 15, 2010:

(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the Project, which may take the form of a reimbursement resolution or an inducement resolution.

(2) A resolution adopted by the governing body of the jurisdiction in which the proposed Project will be located, documenting the public approval process as required by 26 U.S.C. section 147(f) (TEFRA).

(3) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the Project area. This requirement will only be required when the Issuer is an entity other than a municipality such as a county or a conduit Issuer.

(4) A legal memo from bond counsel which states that based on a preliminary review, the proposed Project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.

(5) A commitment letter outlining the Bond sale structure pursuant to article 6 of chapter 1 for the Bonds being utilized. If the commitment is less than the anticipated amount of Bonds being utilized, the difference will automatically be Deemed Waived.

(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15<sup>th</sup> deadline may have their allocation Deemed Waived.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.82(a)(11)(B), 8869.84(c), 8869.86(c), and 8869.87, Government Code.

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