

**CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY (CEFA)
Qualified Scholarship Funding Corporations**

PROPOSED REGULATIONS

Resolution No. 2006-01

March 29, 2006

INTRODUCTION:

Pursuant to Chapter 318, Statutes of 2005 (Assembly Bill 961 – Liu), the California Educational Facilities Authority Act (the “Act”) was amended to add Education Code Section 94103 requiring approval from CEFA (the “Authority”) before an entity may issue tax-exempt qualified scholarship funding bonds for the purpose of issuing and acquiring student loans. A “qualified scholarship funding bond” is a bond issued by a corporation that is: (1) a not-for-profit corporation established and operated exclusively for the purpose of acquiring student loans incurred under the Higher Education Act of 1965, and (2) organized at the request of a state or political subdivision of the state.

Staff is seeking approval to file the proposed regulations with the Office of Administrative Law (“OAL”). The proposed regulations specify the criteria that the Authority must consider when determining whether a not-for-profit corporation is eligible to issue qualified scholarship funding bonds and apply for allocation of a portion of the state’s annual private activity volume cap from the California Debt Limit Allocation Committee (CDLAC).

BACKGROUND:

**California Educational Facilities Authority – California Student Loan Authority
1996 Merger**

In 1981, the Legislature established the California Student Loan Authority (CSLA) to create a secondary market for federally insured student loans that would ensure access to low cost loans for California students. In 1995, with the need for a state operated secondary market already being met by not-for-profit corporations and other private sector financing mechanisms, the Legislature sought to merge CSLA’s functions into CEFA. Assembly Bill (AB) 1920 effected this merger and was chaptered in October 1995 with its provisions becoming effective on January 1, 1996. As a result of this legislation, the CSLA was abolished.

A prior function of CSLA was to approve requests made by private not-for-profit corporations for authorization to issue tax-exempt private activity bonds to finance the acquisition of student loans. Prior to the establishment of CSLA, any political subdivision in California had the authority to approve such requests. This approval function of CSLA was inexplicably omitted from the 1995 legislation merging CSLA’s functions into CEFA, which inadvertently allowed local jurisdictions to once again become key players in the administration of the state’s Student Loan Program. The recent addition of Section 94103 to CEFA’s Act was necessary in order to restore the state’s exclusive administration of its Student Loan Program.

How is the California Debt Limit Allocation Committee (CDLAC) Involved?

CDLAC was statutorily created to implement Section 1301 of the Federal Tax Reform Act and Section 146 of the Internal Revenue Code, which imposes a limit on the amount of tax-exempt private activity bonds that a state may issue in a calendar year (i.e. the annual state ceiling). Agencies and organizations authorized to issue tax-exempt activity bonds or mortgage credit certificates must receive an allocation from CDLAC. CDLAC's primary responsibilities include setting the annual state ceiling at the beginning of each calendar year with the sole authority to allocate the state ceiling among various state and local issuers.

Currently there are six programs that issue tax-exempt private activity bonds as follows: Qualified Residential Rental Project Program, Single-Family Housing Program, Extra Credit Home Purchase Program, Industrial Development Bond Project Program, Exempt Facility Program, and the Student Loan Program. The maximum issue amount for calendar year 2005 for all programs was over \$2.8 billion with the Student Loan Program portion issuing \$190 million.

What Does the Act Incorporating AB 961 Require?

Effective January 1, 2006, the Act requires not-for-profit corporations to obtain approval from CEFA before applying for an allocation of a portion of the state ceiling to issue qualified scholarship funding bonds through CDLAC's Student Loan Program. Once a not-for-profit corporation is deemed to be eligible to apply for CDLAC allocation, it is not necessary to seek CEFA approval in subsequent years. It should be noted that CEFA approval does not guarantee a not-for-profit corporation will be awarded a portion of the Student Loan Program allocation by CDLAC, which has its own independent process for determining allocation and has historically been competitive between two or three student loan lenders. As a result of the restored CEFA approval requirement and in consultation with legal counsel, representatives in the student loan industry, and other appropriate parties, staff developed criteria for the Authority to apply when determining the eligibility of not-for-profit corporations seeking to issue qualified scholarship funding bonds.

CEFA is currently seeking public comment on the attached draft regulations (please refer to Tab A). Staff anticipates presenting a final version of the regulations to the Authority at its June meeting, assuming all comments have been received from the public, in-house legal counsel, and the Attorney General's Office. Please refer to page 4 for the tentative timeline to finalize the process.

The documents attached are as follows:

Tab A: Draft Regulation Text

Tab B: California Educational Facilities Authority Act (Section 94100 - 94103 of the Education Code)

Tab C: Resolution 2006-01

RECOMMENDATION:

Staff recommends the Authority approve Resolution 2006-01 regarding submission of the draft regulations to the Office of Administrative Law, which specifies the criteria to be considered by the Authority when determining the eligibility of not-for-profit corporations that wish to apply for an allocation of a portion of the state ceiling through CDLAC to issue qualified scholarship funding bonds for its Student Loan Program.