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DATE: March 10, 2011  
TO: 2011 Low Income Housing Tax Credit Stakeholders  
FROM: Anthony Zeto, Development Manager  
SUBJECT: 2011 Application Workshop Questions and Answers

The California Tax Credit Allocation Committee (TCAC) conducted its 2011 Application Workshop training in Sacramento, San Francisco, Los Angeles, and San Diego in late February. Staff responded to many questions during those sessions. The attached list of Questions and Answers is posted to further assist the stakeholder community as they prepare their 2011 9% and 4% + State credit applications.

TCAC will be posting further guidance regarding public land contributions to accompany these Questions and Answers.

If you have any questions regarding the Q&A's, please contact your regional analyst at (916) 654-6340 or <http://www.treasurer.ca.gov/ctcac/assignments.pdf>

# California Tax Credit Allocation Committee

## 2011 Questions & Answers

### TRANCHE B / TIE BREAKERS

- 1. If I have a “tranche B” loan as well as rental subsidy, can I get up to a “25%” boost to the public funds portion of the tiebreaker score in addition to the “tranche B” inclusion?**

Yes. If your “tranche B” loan meets the public funds requirements of Regulation Section 10325(c)(1)(C), and the project has public operating- or rental-subsidies, consistent with Regulation Section 10325(c)(10)(A), you will receive up to a 25% boost to the numerator of the public funds portion (which would include the approved “tranche B” amount) of the final tiebreaker equation.

- 2. If there is no “tranche B” reference broken out in the lender’s commitment letter, will we get public funds points for it?**

No. The commitment letter must document that the lender is underwriting a portion of the loan based on a public rental subsidy, and include the underwriting details of the tranche A and tranche B portions.

- 3. If there is no “tranche A” and the lender will lend a “tranche B” on the overhang, will we count it for public funds?**

Yes. The lender commitment letter must clearly state the underwriting terms of the “tranche B”. It must be clear that the project would not be viable without the public rental subsidy, and the differential between tax credit rental income and the rental subsidy is the basis for the “tranche B” loan.

- 4. The HUD and FHA commitment letters for “tranche B” loans will only give one loan amount rather than breaking it out. Is this ok?**

No. All “tranche B” loans will undergo the same scoring methodology.

- 5. For the 25% boost for rental subsidies, will TCAC accept tenant-based rental assistance?**

No. TCAC will not accept tenant-based rental assistance subsidy for purposes of receiving up to a 25% boost.

- 6. Does the housing type goals first tiebreaker apply to the set-aside projects?**

Yes. The housing type goals are calculated off of the total federal and state credit amounts at the beginning of each round. All 9% applicants, including those applying

under the set-asides, must select a housing type and meet its requirements. The set-aside projects are selection process comes before the geographic apportionment projects so those projects are less likely to be affected by the first tiebreaker since the housing goals tend not to be met that early in the process. However, there are instances where a housing type goal could be met earlier and thus come into effect earlier.

**7. For the tiebreaker calculation, why does TCAC discount the commercial portion from the final tie breaker's first ratio numerator?**

TCAC discounts commercial costs in the numerator according to the guidelines of Regulation Section 10325(c)(10)(A). This prevents projects with commercial or non-residential costs from having a systematic advantage and is consistent with TCAC's final tie breaker evaluations in the 2010 rounds.

**8. Will TCAC honor award letters from the California Department of Housing and Community Development (HCD) and Redevelopment Agencies (RDAs)?**

Yes. For first round applicants in 2011, TCAC will honor these award letters. Currently there is no formal basis upon which to question the validity of these commitments. If this changes, TCAC will publish guidance for projects with these types of commitments.

**COST EFFICIENCY / PUBLIC FUNDS / LAND VALUE / OFF-SITES**

**9. A project is required to develop off-site improvements as a condition of approval for the project. The off-site improvements will benefit the project but will also benefit future development (i.e. roads, utilities, etc.). In this example, the local government applied for and received a CDBG grant to pay for these off-site improvements. Would the CDBG grant count as public funds?**

No. Consistent with Regulation Section 10325(c)(1)(C), public contributions of off-site costs shall not be counted competitively, unless (1) documented as a waived fee pursuant to a nexus study and relevant State Government Code provisions regulating such fees or (2) the off-sites must be developed by the sponsor as a condition of local approval and those off-sites directly benefit the project only, such as utility connections or sidewalks bordering the property. TCAC will not count roads or utilities as off-site costs. Proper documentation summarizing the cost being paid for by the public funding source will need be provided in the application.

**10. Will any other public funds like Infill Infrastructure Grant (IIG) or Transit Oriented Development (TOD) funds be considered for public funds points?**

No. Only the portion of those funds that directly benefits the project (utility connections or sidewalks bordering the property only) will be included in the

development budget. Proper documentation summarizing the cost being paid for by the public funding source will need be provided in the application.

**11. For the Cost Efficiency point category, does the CPA need to detail line item-by-line item which costs are ineligible for the portion that was not carried over to basis?**

It is recommended that the CPA certification include some level of detail related to the budget categories that contain ineligible portions.

**12. If the project site seller is an unrelated charity providing a deferred payment loan, will TCAC count it for public funds?**

No, but the funds may be considered as part of the final tie breaker. To qualify for the final tie breaker the land must be donated and must have been held for at least 10 years consistent with Regulation Section 10325(c)(10)(A). A loan without the transfer of the property will not qualify.

**13. For the following scenarios, how is the land value established?**

**a) 3<sup>rd</sup> party transaction between sponsor and seller:**

The original 3<sup>rd</sup> party sales agreement establishes the land value.

**b) Sponsor to sell to Partnership, originally purchased from a 3<sup>rd</sup> party:**

The original 3<sup>rd</sup> party sales agreement establishes the land value. In the case where the new proposed purchase price exceeds the purchase price from the original 3<sup>rd</sup> party sales agreement, a current appraisal within 1 year of the application deadline will be required to be submitted to establish the land value.

**14. What type of appraisal is required for public funds purposes?**

TCAC requires a complete appraisal by a California certified appraiser similar to the appraisal required of all rehabilitation projects consistent with regulation section 10322(i)(4)(A).

**15. Why does an appraisal for determining land value have to exclude the buildings to be demolished?**

Including demolished buildings would give a systematic advantage to applicants purchasing land with existing derelict improvements, a practice TCAC does not intend to reward. This is consistent with the requirements of Regulation Section 10322(i)(4). The total land value may be included in the development budget, but the portion attributed to the buildings to be demolished will not be considered for public funds points or for the final tiebreaker.

## **SITE & SERVICE AMENITIES**

- 16. Can we use the grocery store square footage certification from 2010 for the 2011 application?**

Yes. You may submit the grocery store square footage certification from 2010 provided no changes have been made to the grocery store.

## **SUSTAINABLE BUILDING METHODS / MINIMUM CONSTRUCTION STANDARDS**

- 17. Does a retail (commercial space) floor count towards the number of floors when determining if the project is a high-rise or a low-rise?**

The retail (commercial space) floor would be counted towards the number of floors when determining if a building is a high-rise or low-rise residential building if it is (1) conditioned (climate controlled) and (2) at least 50% of the bottom unit's volume is above grade (for projects located on a slope).

- 18. If a project applied for building permits prior to adoption of the 2008 Title 24 code, can you clarify how TCAC's new minimum construction standards apply?**

TCAC minimum construction standards are based on the current energy efficiency standards of the California Code of Regulations and CALGreen Code compliance, and applicants must comply with these standards.

- 19. Does the application require anything besides Attachment 25 as far as certifications for the sustainable building methods at the preliminary reservation stage?**

No. These items will be verified as described in regulation section 10325(c)(6)(F) at the placed in service stage.

- 20. Can the sustainable building methods items be switched following an award?**

Yes, but only with prior approval from TCAC.

## **READINESS**

- 21. For the NEPA clearance, do we require just that the local public agency has approved it for purposes of readiness?**

Consistent with regulation section 10325(c)(8), evidence, as verified by the appropriate officials, of site plan approval and that all local land use environmental review clearances (CEQA and NEPA) necessary to begin construction are either

finally approved or unnecessary by the application deadline date. Furthermore, the request for release of funds must be submitted to HUD no later than the application deadline date. Any appeal periods may run up to 30 days beyond the application due date. Appeals that run past the application deadline date must be followed up by documentation verifying that either no appeals were received, or that any appeals received during that time period were resolved within that 30-day period to garner local approval readiness points.

**22. If a construction lender does not want to close by the 180-day readiness deadline, but rather wait until the project is further along, would they receive any forbearance?**

No. If an applicant is awarded all 20 readiness points, the project must have all construction financing closed and recorded by the 180-day readiness deadline.

**PROJECT FINANCING**

**23. Does TCAC have minimum interest rate requirements for project financing?**

No. This requirement was primarily related to the 2009 final tie breaker, and is not longer in effect. If a project's financing includes loan terms TCAC staff finds unusual or outside the parameters of current underwriting, it may be questioned (see Regulation Section 10327(g)(4)).

**24. If the project has commercial costs, but no commercial income, do we still need separate 15-year cash flows?**

TCAC Regulation Section 10322(h)(22) requires an explanation regarding the commercial income and expenses. Be prepared to answer TCAC staff inquiries if the explanation is not sufficient.

**MARKET STUDY**

**25. For market studies, what rents should the market analysts be using if they have Section 8 project-based vouchers?**

The Market Analyst must use the subject's highest targeted rent by bedroom type, as shown in the application.

**26. For Special Needs projects, if there are no comparables in the primary market area, what should the market analyst do?**

The Market Analyst may use projects with similar unit type and amenities within the market area. If the analyst must extend the search outside the PMA, refer to section VIII, C(2)(d)(i) of the Market Study Guidelines for further information. In addition, refer to recently updated public housing waiting list and the applicant's knowledge of

the targeted Special Needs population. Contact local services providers, as well as the specific county health and human services department or non profit social services agencies that serve the special needs target population within the PMA.

- 27. Per the updated Market Study Guidelines dated February 2, 2011, will Market Analyst be required to submit photos of comparables that are outside one mile when only updating the market studies (less than a year old, but older than 6 months)?**

For the first round applicants only, we will not require updated market studies to include photos of comparables outside one mile, **but** we will require it for all new market studies. When submitting market studies in the second round, regardless if it's an updated study or prepared less than 6 months from the second round application deadline, we will require the analyst to submit photos of comparables outside one mile.

### **RURAL “BUILD AND FILL” POLICY**

- 28. For the rural “build and fill” requirement (Regulation Section 10322(h)(9)), what is the timeframe TCAC considers “under construction”?**

Under construction is defined as start of construction (building permits have been issued) through when the project is placed in service (Temporary or Final Certificate of Occupancy).

- 29. Does the rural “build and fill” requirement only apply to 9% projects?**

No. Since the “build and fill” requirement is referenced in the market study Regulation Section 10322(h)(9), this requirement applies to both 9% and 4% rural projects.

### **ADAPTIVE REUSE**

- 30. For Adaptive Reuse projects, do we require Attachment 8 (Rehabilitation Summary) and a Capital Needs Assessment (CNA) to be submitted?**

No, but be sure to discuss exceptions to requirements for Tabs 7 and 8 with TCAC staff prior to application. Exceptions will vary according to project type.

### **UTILITY ALLOWANCE**

- 31. For utility allowances, can we mix and match the CUAC with the PHA utility allowances?**

No. The applicant must select either the CUAC or the PHA utility allowances.

### **STATE CREDIT CALCULATION**

- 32. Would the maximum state credits be calculated based off of the requested eligible basis multiplied by the applicable fraction or the actual eligible basis multiplied by the applicable fraction?**

The following corrects information preliminarily provided at the application workshops. The correct way to calculate the maximum state credits is to multiply the qualified basis (requested eligible basis x applicable fraction) by the state factor (i.e. 30%).

### **ELECTRONIC SUBMISSION QUESTIONS**

- 33. For the new application process, will TCAC require that a document (i.e. DDA, loan commitments) found in multiple sections be required to be saved in each of the applicable tabs on the CD?**

No. Applicants should provide cross reference information directing TCAC staff to the document location.

- 34. Can applicants submit a USB drive rather than a CD?**

Yes, for the first round applicants may submit a USB drive. TCAC staff will evaluate this practice during the first round and consider making this a permanent option. Applicants should be sure that their electronic format (not the case or container) clearly identifies the project name.

### **APPLICATION ATTACHMENTS**

- 35. Can the applicant submit TCAC Application Attachments from previous years instead of the current 2011 TCAC Application Attachments?**

No. All TCAC Application Attachments must be completed on the 2011 forms.