



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

915 Capitol Mall, Suite 485
Sacramento, CA 95814
p (916) 654-6340
f (916) 654-6033
www.treasurer.ca.gov/ctcac

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State Treasurer

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State Controller

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DATE: November 18, 2020

TO: Low Income Housing Tax Credit Project Owners

FROM: California Tax Credit Allocation Committee – Compliance Section

RE: Tax Credits and Ownership Transfers (Updated)

The California Tax Credit Allocation Committee (TCAC) receives requests from project owners to sell or transfer ownership interests of an existing tax credit project. As part of our due diligence in processing such requests, TCAC staff must perform a qualifications review to determine if sufficient project development and property management experience exists for the newly proposed owner and property management company. TCAC Regulation Sections 10320(b), 10325(c)(2), and 10326(g)(5) specifically outline the general partner and property management experience requirements. In order to facilitate the qualifications review and prior to recommending approval, staff has developed the following attached questionnaire and checklist of required documents that must be submitted to TCAC.

In addition, TCAC Regulation Section 10320(b)(2) requires that all transfer events, as defined in TCAC Regulation Section 10302(qq), shall obtain the prior written approval of the Executive Director and are conditioned upon the post-transfer event owner entering into a specified covenant with TCAC relating to the rehabilitation needs of the project. All transfer events that include properties that received 4% tax credits in conjunction with a bond allocation from the California Debt Limit Allocation Committee (CDLAC), must also inform CDLAC of the intention to complete a transfer event on the project.

In order to facilitate the review and determine if the requests are subject one or both of the reviews, TCAC requires the following checklist of required documents be submitted to TCAC at the time of the request.

Please note: average processing times for review of a Transfer Event are 3-4 weeks to complete once all documentation has been received. Transfer Event submissions received from November – January may take 4-6 weeks to process. Transfer Events are processed in the order they are received. TCAC cannot prioritize Transfer Events that are submitted with less than the average processing time from their closing date.

Please find your transaction type below and submit to TCAC with the corresponding documentation. If the transaction is more than one type of Transfer Event (*ex. Refinance as part of an Investor Exit*), then each type of transaction will be processed individually. Please submit the documentation for each type of transaction separately. Processing and Review will begin once all the documentation has been received. **Partial submissions will not be accepted.** Please check the boxes for your specific type of Transfer Event only:

Limited Partner (LP) or Investor Exit

This type of transaction is for the transfer of limited partnership interests in conjunction with the withdrawal of the investor entity as part of the original partnership agreement.

Please provide the following:

- Completed Questionnaire for Ownership Transfers and Transfer Events; and
- Letter from current owner of record notifying TCAC of the proposed transfer of existing tax credit project including TCAC project name and number. Please specify which entity is withdrawing and which entity will be assuming the partnership interests.

Managing or Administrative General Partner Change

This type of transaction is for when the role of the administrative general partner (AGP) entity in the ownership is being assumed by the managing general partner (MGP), or vice versa, and where the ownership entity limited partner (top level partner) remains the same and no equity from the property is being used to finance the change.

Please provide the following:

- Completed Questionnaire for Ownership Transfers and Transfer Events;
- Letter from current owner of record notifying TCAC of the proposed change in general partnerships. Please include the TCAC project name and number and specify which entity is withdrawing and which entity will be assuming the roles; and
- Updated TCAC Project Ownership Profile Form (POP), identifying the new partnership entity roles and current property management agent.

If either the MGP or AGP role is being transferred to new outside entity but no additional changes are being made to the structure of the partnership and no equity from the property is being used to finance the change, in addition to the above, please also include the following:

- Completed [Attachment 21 - General Partner \(G.P.\) Experience](#) for the incoming entity

Refinance

This type of transaction is for any type of refinancing done on the property.

Does the refinancing, increase the outstanding principal balance of the debt or is there an equity payout involved in the refinance?

- Yes
- No

If “Yes”, please provide the following:

- Completed Questionnaire for Ownership Transfers and Transfer Events;
- Letter from current owner of record notifying TCAC of the proposed refinance of existing tax credit project. Please include the TCAC project name and number in the letter;
- TCAC [Stand Still Agreement](#) (*editable Microsoft Word format*);
- Sources and Uses worksheet indicating the net equity distribution;
- Current Capital Needs or Property Condition Assessment for the property completed within 120 days; and
- TCAC [Capital Needs Agreement - Refinance](#) (*editable Microsoft Word format*)*

If “No”, please provide the following:

- Completed Questionnaire for Ownership Transfers and Transfer Events;
- Letter from current owner of record notifying TCAC of the proposed refinance of existing tax credit project. Please include the TCAC project name and number in the letter; and
- TCAC [Stand Still Agreement](#) (*editable Microsoft Word format*)

Supplemental Loan

This type of transaction is for any additional or supplemental loan being added to property in addition to any existing loans on the property.

Is the supplemental loan for direct costs that impact only the property or will the funds from the supplemental loan be put directly into the property reserves (not to pay out equity or other distributions)?

- Yes
- No

If “Yes”, please provide the following:

- Completed Questionnaire for Ownership Transfers and Transfer Events;
- Letter from current owner of record notifying TCAC of the proposed supplemental loan. Please include the TCAC project name and number in the letter;
- Sources and Uses worksheet indicating the dispersion of the supplemental loan proceed; and
- TCAC [Stand Still Agreement](#) (*editable Microsoft Word format*)

If “No”, please provide the following:

- Completed Questionnaire for Ownership Transfers and Transfer Events;
- Letter from current owner of record notifying TCAC of the proposed supplemental loan. Please include the TCAC project name and number in the letter;
- TCAC [Stand Still Agreement](#) (*editable Microsoft Word format*);
- Sources and Uses worksheet indicating the distribution schedule;
- Current Capital Needs or Property Condition Assessment for the property completed within 120 days; and
- TCAC [Capital Needs Agreement - Refinance](#) (*editable Microsoft Word format*)*

Sale of a Property (not in conjunction with a Resyndication of Credits):

This type of transaction is for the Sale of a Property to another entity who will maintain the provisions of the LIHTC program through the end of the Regulatory Period. It does not include the sale of a property where the new owner intends to resyndicate the project for a new allocation of credits concurrently with the sale of the property.

Does your Transfer Event qualify for one of the following exemptions?

- The project consists of less than 50% Tax Credit units;
- A transfer of the project or a partner or member interest in a project owner in which the debt encumbering the project is not increased, refinanced or otherwise modified. Please provide Sources and Uses worksheet;
- A replacement of a general partner by the limited partner upon the occurrence of a default by a general partner in accordance with the partnership agreement of the project owner. Please provide default notice and final documentation of replacement;
- A transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party. Please provide evidence of foreclosure or deed in lieu of foreclosure by mortgage lender;
- A project subject to a Capital Needs Agreement (Covenant) and is now being transferred in connection with a new reservation of 9% or 4% tax credits (i.e., re-syndication);
- A transfer of the ownership of a project subject to an existing tax credit regulatory agreement with a remaining term of five (5) or less years that is made in connection with a new reservation of 9% or 4% tax credits (i.e., re-syndication); or
- This project does not meet one of the above exceptions**

Does your Transfer Event qualify for a full waiver from the Capital Needs Agreement (Covenant) because there are no distributions of Net Project Equity from the Transfer Event to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited partner(s) as a result of the Transfer Event?

- Yes
- No - **This project does not qualify for a full waiver of the Capital Needs Agreement (Covenant)**

Does your Transfer Event qualify for a modification of the Capital Needs Assessment (Covenant) requirements because there is insufficient Net Project Equity to fund all of the work contemplated by the Qualified Capital Needs Assessment?

- Yes
- No - **This project does not qualify for a modification of the Capital Needs Agreement (Covenant)**

If “Yes”, please provide:

- Sources and Uses worksheet which computes net project equity as defined in TCAC Regulation Section 10302(cc). TCAC staff will use the Sources and Uses worksheet to determine if the request for a partial modification will be approved. If the worksheet shows net project equity derived is not sufficient to complete the required short term work, then the provider of the Qualified Capital Needs Assessment shall update the reserve study to include the costs of short term work that cannot be funded in the costs of the long term work to be funded with annual deposits to replacement reserve accounts.

If the Sale of Transfer Event **meets** the requirements for an Exemption, Waiver of Capital Needs Assessment, or partial modification of the Capital Needs Requirements, please provide the following:

- Completed Questionnaire for Ownership Transfers and Transfer Events;
- Letter from current owner of record notifying TCAC of the proposed sale of existing tax credit project including TCAC project name and number;
- Purchase/Sales Agreement;
- Sources and Uses worksheet including net equity distribution to the seller;
- Organization Chart showing the newly proposed owner structure;
- [Assignment and Assumption of TCAC Regulatory Agreement](#) (buyer assumes TCAC regulatory agreement). The agreement should include the TCAC # of the project (*editable Microsoft Word format*);
- TCAC [Stand Still Agreement](#) if the acquisition is being financed (*editable Microsoft Word format*);
- Filing of the newly formed owner entity with the California Secretary of State's Office (*if applicable*);
- IRS letter which shows the federal taxpayer identification number for the new owner entity (*if applicable*);
- Completed TCAC Project Ownership Profile Form (POP), identifying the new owner entity and property management agent;
- Property Management Agreement for project;
- Financial statements for new owner entity including General Partner (GP) or Administrative General Partner (AGP). If entity is newly formed, include financial statements for the principals;
- Completed [Attachment 21 - General Partner \(G.P.\) Experience](#) and [Attachment 22 - Management Company Experience](#) evidencing GP, AGP and PM experience;
- Completed [Project Status Report](#) (PSR);
- Statement of the current Building Identification Numbers (BINs) and unit mix of the property. Please provide an additional explanation if this mix differs from the Recorded Regulatory Agreement;
- Statement of how much will rents increase after the transfer of ownership interests occurs;
- Confirmation statement from current owner confirming that seller will transfer tenant records and all tenant demographic data collected up to the date the sale closes escrow to the buyer and their property management agent;
- Completed TCAC Annual Owner Certification (AOC) Form and TCAC Annual Operating Expense (AOE) reports;
- IRS Tax Form 990 for non-profit organization (*if applicable*); and
- [Reserve Certification](#) indicating that all unexpended funds in the project reserve funds associated with the project will remain with the project (TCAC Regulation Section 10327(c)(7)).

If the Sale of Transfer Event **does not meet** the requirements for an Exemption, Waiver of Capital Needs Assessment, or partial modification of the Capital Needs Requirements:

Please provide the following information:

- Completed Questionnaire for Ownership Transfers and Transfer Events;
- Letter from current owner of record notifying TCAC of the proposed sale of existing tax credit project including TCAC project name and number;
- Purchase/Sales Agreement;

- Sources and Uses worksheet including net equity distribution to the seller;
- Organization Chart showing the newly proposed owner structure;
- [Assignment and Assumption of TCAC Regulatory Agreement](#) (*buyer assumes TCAC regulatory agreement*). The agreement should include the TCAC # of the project. Please submit this form in an editable Microsoft Word format;
- TCAC [Stand Still Agreement](#) if the acquisition is being financed (*editable Microsoft Word format*);
- Current Qualified Capital Needs Assessment or Property Condition Assessment, as defined in TCAC Regulation Section 10302(ff), for the property;
- TCAC [Capital Needs Agreement - Ownership Transfers](#) (*editable Microsoft Word format*)*;
- Filing of the newly formed ownership entity with the California Secretary of State's Office (*if applicable*);
- IRS letter which shows the federal taxpayer identification number for the new owner entity (*if applicable*);
- Completed TCAC Project Ownership Profile Form (POP), identifying the new owner entity and property management (PM) agent;
- Property Management Agreement for project (*if applicable*);
- Financial statements for new owner entity including General Partner (GP) or Administrative General Partner (AGP). If entity is newly formed, include financial statements for the principals;
- Completed [Attachment 21 - General Partner \(G.P.\) Experience](#) and [Attachment 22 - Management Company Experience](#) evidencing GP, AGP and PM experience;
- Completed TCAC [Project Status Report](#) (PSR);
- A statement of the current Building Identification Numbers (BINs) and unit mix of the property. Please provide an additional explanation if this mix differs from the Recorded Regulatory Agreement;
- Statement of how much will rents increase after the transfer of ownership interests occurs.
- Statement from current owner confirming that seller will transfer tenant records, rent records, and all tenant demographic data collected up to the date the sale closes escrow to the buyer and their property management agent;
- Completed TCAC Annual Owner Certification (AOC) Form and TCAC Annual Operating Expense (AOE) reports;
- IRS Tax Form 990 for non-profit organization (*if applicable*); and
- [Reserve Certification](#) indicating that all unexpended funds in the project reserve funds associated with the project will remain with the project (TCAC Regulation Section 10327(c)(7)).

* *For Transfer Events requiring a Capital Needs Assessment and Capital Needs Agreement (Covenant) a 15 year projected Table must be used. Regulations require that any Immediate and Critical Repair Needs plus the needs indicated for Years 1-3 be set aside in a Short Term Reserve account with the work noted completed within 3 years. The Long Term Reserve annual contribution amount should be the average inflated amount per unit per year noted for the remainder of the 15 year term. Properties with less than 15 years in their Regulatory Period, may prorate through the end of the compliance/regulatory period.*

Sale of a Property (in conjunction with a Resyndication of Credits):

If the new owner intends to resyndicate and apply for a new allocation of credits in conjunction with the sale of the property, the Transfer Event will be processed simultaneously with the application for

the new allocation of credits. **This Questionnaire for Transfer Events will not need to be submitted.** Instead, please see [Resyndication Requirements Checklist and Q&A](#) for questions regarding this scenario.

Please submit the above information to Compliance Program Manager, David McDaniels, via email or Secure File transfer to david.mcdaniels@treasurer.ca.gov in order to initiate the transfer event process. If the responses noted on the completed Questionnaire do not match any of the above scenarios or if you have any additional questions, please contact Compliance Program Manager, David McDaniels, at (916) 654-6340 or at the email noted above for guidance.